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**DECLARATION OF CONDOMINIUM  
OF DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM**

SOUTH BEACH RESORT DEVELOPMENT, LLC, a Florida limited liability company, hereby makes this Declaration of Condominium of De Soleil South Beach Residential Condominium to be recorded amongst the Public Records of Miami-Dade County, Florida, where the "Condominium Property" (as hereinafter defined) is located, and states and declares:

**1. SUBMISSION STATEMENT**

Developer is the owner of record of the "Condominium Property" and does hereby submit same to condominium ownership pursuant to the Condominium Act, Chapter 718, Florida Statutes, as amended through the date of recording this Declaration amongst the Public Records of the County. The Condominium Property is described in Exhibit "A" attached hereto and made a part hereof.

**2. NAME AND ADDRESS**

The name of this condominium is De Soleil South Beach Residential Condominium. The street address of the Condominium is 1501 Collins Avenue, Suite 300, Miami Beach, Florida 33139, located in Miami-Dade County, Florida.

**3. DEFINITIONS**

The terms contained in this Declaration shall have the meanings given in the Act and, for clarification, the following terms have the following meanings:

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3.1. "Act" means the Condominium Act, Chapter 718, Florida Statutes, as amended through the date of recording this Declaration amongst the Public Records of the County.

3.2. "Articles" means the Articles of Incorporation of the Association, attached as Exhibit "C" and incorporated herein by reference, and any amendments thereto.

3.3. "Assessments" means any and all charges for which all Residential Condominium Unit Owners are obligated to pay to the Association pursuant to the Act, as well as common law assessments which are created by this Declaration and the Master Declaration and are covenants running with the land and include:

3.3.1. "Annual Assessment," which includes, but is not limited to, each Residential Condominium Unit Owner's annual share of funds required for the payment of (i) Common Expenses, as determined in accordance with this Declaration; and (ii) Shared Expenses as determined in accordance with the Master Declaration; and

3.3.2. "Special Assessments" means an assessment levied by the Association for a non-reoccurring expense and which, therefore, was not included in the "Budget" (as hereinafter defined) and which are more particularly described in Paragraph 19.3 herein.

3.4. "Association" means De Soleil South Beach Residential Condominium Association, Inc., a Florida corporation not for profit, organized to administer the Condominium (other than the rental management, if applicable) and having as its members the Residential Condominium Unit Owners. For purposes of the Master Declaration only, the Association shall be deemed the "Owner" (as defined in the Master Declaration) of the Condominium Property upon the recording of this Declaration; it being acknowledged, however, that the Association will not have or hold actual title to the Condominium Property.

3.5. "Board" means the Board of Directors of the Association.

3.6. "Building" means the improvements which include the Garage Parcel, the Commercial Parcel and the Residential Parcel combined, and more particularly including a five (5) story mixed-use building, comprised of a lowest level (Garage Parcel), a first (1<sup>st</sup>) floor (Commercial Parcel), and second (2<sup>nd</sup>) floor, third (3<sup>rd</sup>) floor, fourth (4<sup>th</sup>) floor and roof (collectively, Residential Parcel).

3.7. "Bylaws" means the Bylaws of the Association, attached hereto as Exhibit "D" and incorporated herein by reference, and any amendments thereto.

3.8. "Commercial Condominium Association" means the not-for-profit corporation formed or to be formed to operate the Commercial Parcel. For purposes of the Master Declaration only, the Commercial Condominium Association shall be deemed the Owner of the Commercial Parcel upon the recording of the "Commercial Condominium Declaration" (as defined in the Master Declaration); it being acknowledged, however, that the Commercial Condominium Association will not have or hold actual title to the Commercial Parcel.

3.9. "Commercial Parcel" means the property described in the Master Declaration, together with all improvements including the "Commercial Condominium Units" (as defined in the Master Declaration), now or hereafter located therein, generally including the first (1<sup>st</sup>) floor of the Building. In the event the Commercial Condominium Declaration is recorded in the Public Records of the County, the term shall include the Commercial Condominium Units and the undivided interests in the common elements appurtenant thereto. The Commercial Parcel is currently planned to contain a front desk and offices, restaurant, deck area, retail space, lobby and restrooms.

3.10. "Common Elements" means:

3.10.1. The Condominium Property, other than the Residential Condominium Units;

3.10.2. Easements through the Residential Condominium Units for conduits, ducts, plumbing, wiring and other facilities for furnishing of utility services to Residential Condominium Units, the Common Elements and other portions of the Building;

3.10.3. An easement of support in every portion of a Residential Condominium Unit which contributes to the support of the Building;

3.10.4. Property and installations required for the furnishing of utility services and other services for more than one Residential Condominium Unit, the Common Elements, other portions of the Building or a Residential Condominium Unit other than the Residential Condominium Unit containing the installation; and

3.10.5. Columns or other structural components of the Building within the Condominium.

3.11. "Common Expenses" means expenses for which the Residential Condominium Unit Owners are liable to the Association, as defined in the Act and as described in the Condominium Documents, and include:

3.11.1. The expenses for the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, cost of fire and extended coverage insurance; and

3.11.2. Any other expenses designated as Common Expenses from time to time by the Board which are not inconsistent with the Act or this Declaration; and

3.11.3. The Shared Expenses allocated to the Residential Parcel pursuant to the Master Declaration.

3.12. "Common Surplus" means the excess of receipts of the Association collected on behalf of the Condominium (including, but not limited to, assessments, rents, profits and revenues, on account of the Common Elements) over the Common Expenses.

3.13. "Condominium" or "De Soleil South Beach Residential Condominium" means the Condominium Property as described in Exhibit "A" attached hereto and the improvements thereon which are submitted to condominium ownership pursuant to this Declaration, as the same may be amended from time to time.

3.14. "Condominium Documents" means in the aggregate this Declaration, the Articles, the Bylaws, the Master Declaration, any rules and regulations promulgated by the Association and/or the Master Association, all of the instruments and documents referred to therein and executed in connection with the Condominium, and all amendments to the foregoing.

3.15. "Condominium Property" means the property submitted to condominium ownership as the Condominium and all improvements thereon, including, but not limited to, the Residential Condominium Units, all Common Elements and a perpetual nonexclusive easements pursuant to the Master Declaration, to, over and across the Shared Facilities to public ways and including dedicated streets. The easements described and set forth in this Paragraph are intended to comply with Section 718.104(4)(m) of the Act. Notwithstanding anything contained herein to the contrary, however, the term "Condominium Property" shall not include any telecommunications lines and equipment owned by a utility and/or telecommunication firm(s) and/or other legal entity(ies) which have contracted with or have imposed other legal requirements upon Developer, the Association and/or the Master Association to provide a utility or telecommunications service and/or equipment nor shall Condominium Property include telecommunications equipment, if any, owned by Developer, the title to which is hereby specifically reserved unto Developer, its successors and/or assigns. The Condominium Property also excludes the easements reserved by the Developer pursuant to Paragraph 10 hereof. The term "Condominium Property" is synonymous with the term "Residential Parcel."

3.16. "County" means Miami-Dade County, Florida.

3.17. "Declaration" means this document and any amendments or supplements hereto.

3.18. "De Soleil South Beach" means the name given to the Building located at 1501 Collins Avenue, Suite 300, Miami Beach, Florida, which is being developed by Developer. The term "De Soleil South Beach" includes De Soleil South Beach Residential Condominium which is planned to contain eighty (80) Residential Condominium Units contained within the second (2<sup>nd</sup>) through fourth (4<sup>th</sup>) floors and the roof of the Building, the Commercial Parcel contained or to be contained on the first (1<sup>st</sup>) floor of the Building, and the "Parking Garage" (as defined in the Master Declaration) contained or to be contained on the Garage Parcel, the below-ground level of the Building.

3.19. "Developer" means South Beach Resort Development, LLC, a Florida limited liability company, its grantees, successors and assigns. Developer shall have the right to assign any and all of the rights and privileges reserved for Developer under this Declaration and the other Condominium Documents. A Residential Condominium Unit Owner shall not, solely by the purchase of a Residential Condominium Unit, be deemed a successor or assign of Developer or of the rights of

Developer under the Condominium Documents unless such Residential Condominium Unit Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Developer.

3.20. "Garage Parcel" means the real property legally described as such in the Master Declaration, together with all improvements now or hereafter located thereon, generally including the Parking Garage but excluding the Commercial Parcel and the Residential Parcel.

3.21. "Institutional Mortgagee" means any lending institution having a mortgage lien upon a Residential Condominium Unit, including, but not limited to, any of the following institutions or entities: (i) a federal or state savings and loan association or bank doing business in the State of Florida or a life insurance company doing business in Florida which is approved by the Commissioner of Insurance of the State of Florida, or a bank or real estate investment trust, or a mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof licensed or qualified to make mortgage loans in the State of Florida, or a national banking association chartered under the laws of the United States of America; or (ii) any and all investing or lending institutions, persons or entities which have loaned money to Developer in order to enable Developer to acquire, or construct improvements upon, any portion of the Condominium or the Condominium Property and which holds a first mortgage upon such portion of the Condominium or the Condominium Property as security for such loan; or (iii) any pension or profit sharing funds qualified under the Internal Revenue Code; or (iv) the Veterans Administration or the Federal Housing Administration or the Department of Housing and Urban Development or other lenders generally recognized in the community as institutional lenders; or (v) such other lenders as the Board shall hereafter designate as such in writing which have acquired a mortgage upon a Residential Condominium Unit; or (vi) any "Secondary Mortgage Market Institution," including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and such other Secondary Mortgage Market Institution as the Board shall hereafter designate as such in writing which has acquired a mortgage upon a Residential Condominium Unit; or (vii) Developer, its successors and assigns, or any entity affiliated with or related to Developer.

3.22. "Interest" means the maximum nonusurious interest rate allowed by law on the subject debt or obligation and, if no such rate is designated by law, then eighteen percent (18%) per annum.

3.23. "Lead Mortgagee" means the holder of first mortgages on Residential Condominium Units which has the highest aggregate original principal amount when compared to the aggregate original principal amount held by other holders of first mortgages.

3.24. "Legal Fees" means: (i) all fees for attorney and paralegal services incurred in negotiations, mediations, arbitration, litigation or preparation for same (whether or not an action is actually begun) through and including all trial and appellate levels and postjudgment or collection proceedings; and (ii) all costs incurred with respect to the matters set forth in (i) above.

3.25. "Limited Common Elements" means those Common Elements which are reserved for the use of certain Residential Condominium Units to the exclusion of other Residential

Condominium Units, as more particularly described in Article 5 hereof.

3.26. "Listed Mortgagee" means the holder, insurer, or guarantor of a mortgage encumbering a Residential Condominium Unit of which the Association has been notified pursuant to Paragraph 28.2 herein.

3.27. "Master Association" means De Soleil South Beach Association, Inc., a Florida corporation not for profit, organized to administer the Building and having as its members the Association, the Owner of the Commercial Parcel (or the Commercial Condominium Association upon the recordation of the declaration of condominium which declares the Commercial Parcel to be a condominium) and the Owner of the Garage Parcel.

3.28. "Master Declaration" means the Declaration of Master Covenants, Easements and Restrictions for De Soleil South Beach recorded in Official Records Book 25089, Page 2212, of the Public Records and any and all amendments thereto (as defined therein) whereby the Shared Expenses of the areas designated therein as Shared Facilities are made specifically applicable to Owners to be collected by the Association on behalf of the Master Association as provided in the Master Declaration.

3.29. "Public Records" means the Public Records of the County.

3.30. "Residential Condominium Unit" means "unit" as described in the Act and is that portion of the Condominium Property within the Condominium which is subject to exclusive ownership and which is to be utilized only for residential or transient lodging purposes.

3.31. "Residential Condominium Unit Owner" means "unit owner," as defined in the Act, and is the owner of a Residential Condominium Unit.

3.32. "Residential Parcel" means the Condominium Property which is the same property described in the Master Declaration as the Residential Parcel, together with all improvements therein including the Residential Condominium Units, now or hereafter located therein, generally including the second (2<sup>nd</sup>) through the fourth (4<sup>th</sup>) floors and the roof of the Building and the undivided interests in the common elements appurtenant thereto.

3.33. "Shared Expenses" means the actual and estimated cost of maintenance of the Shared Facilities as described in the Master Declaration (including unpaid "Assessments" [as defined in both this Declaration and the Master Declaration] not paid by a Residential Condominium Owner or Owner, as the case may be, responsible for payment).

3.34. "Shared Facilities" means those portions, components, features or systems of the Building which by purpose, nature, intent or function afford benefits to or serve more than one "Parcel" (as defined in the Master Declaration) in the Building, rather than a single Parcel exclusively, including those which are declared to be Shared Facilities in the Master Declaration. Shared Facilities are more fully described in the Master Declaration.

#### 4. DESCRIPTION OF IMPROVEMENTS

4.1. Description of Improvements. The property being submitted to condominium ownership pursuant to this Declaration is described on the "Survey" (as hereinafter defined). The improvements include eighty (80) Residential Condominium Units, each of which is designated by a two or three digit number (as described in Paragraph 4.3 hereinbelow) and is so referred to herein and in the Exhibits hereto. No Residential Condominium Unit bears the same designation as any other Residential Condominium Unit in the Condominium.

4.2. Survey and Description of Common Elements. Exhibit "B" is a survey of the Condominium Property and a graphic description of the improvements in which the Residential Condominium Units and the Common Elements are located (both of which are herein collectively referred to as the "Survey"). The Survey shows and identifies thereon the Common Elements and every Residential Condominium Unit, its relative location and its approximate dimensions. There is attached to the Survey and made a part of this Declaration a certificate of a surveyor prepared, signed and conforming with the requirements of Section 718.104(4)(e) of the Act.

Although the elevator shafts in the Building are part of the Common Elements of the Condominium, the elevators, including the elevator cab, mechanisms and other equipment associated with the operation of the elevators shall be owned and maintained by the Master Association.

The Survey also shows other portions of the Building which are not included in the Condominium.

4.3. Identification of Residential Condominium Units. The Survey also includes a numerical designation for each and every Residential Condominium Unit. Every deed, lease, mortgage or other instrument may legally describe a Residential Condominium Unit by such identifying number and each and every description shall be deemed good and sufficient for all purposes.

All Residential Condominium Units on the second and third floors of the Building are designated by a three (3) digit Arabic numeral, the first digit designating the floor (two (2) or three (3)), the second or middle digit being either a zero (0) for Residential Condominium Units whose unit number is one (1) through nine (9), or being the first digit of the unit number of those Residential Condominium Units whose unit numbers is ten (10) or higher, and the third or last digit being either a unit number from one (1) through (9), or the second digit of a unit number which is ten (10) or higher. All Residential Condominium Units on the fourth floor are designated by a "PH," a hyphen and a two (2) digit Arabic numeral, the first digit being either a zero (0) for Residential Condominium Units whose unit number is one (1) through (9), or being the first digit of the unit number of those Residential Condominium Units whose unit numbers is ten (10) or higher, and the third or last digit being either a unit number from one (1) through (9), or the second digit of a unit number which is ten (10) or higher

## 5. DESCRIPTION OF LIMITED COMMON ELEMENTS

5.1. Roof Terraces, Private Sundecks and Balconies. Each area shown on the Survey as a private sundeck or balcony ("Private Sundeck" and "Balcony"), as well as the air space directly over the concrete slab thereof upon and to the lower plane of the concrete slab of the floor above, shall be a Limited Common Element reserved for the exclusive use of the Residential Condominium Unit Owner of the Residential Condominium Unit adjacent thereto. Each area shown on the Survey as a roof terrace ("Roof Terrace"), as well as the air space directly over the concrete slab thereof to the upper limit of the Condominium shall be a Limited Common Element reserved for the exclusive use of the Residential Condominium Unit Owner of the Residential Condominium Unit having a staircase leading thereto. The structural elements of such Roof Terraces, Private Sundecks and Balconies shall be maintained by either the Association or the Master Association and the cost thereof shall be a Common Expense or Shared Expense, as the case may be. Residential Condominium Unit Owners shall not affix anything to a Roof Terrace, Private Sundeck or Balcony or extend or enclose a Roof Terrace, Private Sundeck or Balcony.

No item which is visible from the sidewalks near the Building or from any prior of the Building may be placed on a Balcony unless such item has been approved by the Master Association.

5.2. Private Spas, Private Staircases and Awnings. Each area shown on the Survey as a private spa, private staircase and awning ("Private Spa," "Private Staircase" and "Awning"), shall be a Limited Common Element reserved for the exclusive use of the Residential Condominium Unit Owner of the Residential Condominium Unit adjacent thereto. Such Private Spas, Private Staircases and Awnings shall be maintained by the Association. The cost and expense incurred by the Association in maintaining said Private Spas, Private Staircases and Awnings shall be paid for and shared by only the Residential Condominium Unit Owners who have use rights in and to said Private Spas, Private Staircases and Awnings. Residential Condominium Unit Owners who have use rights in and to said Private Spas, Private Staircases and Awnings shall pay an equal pro rata share of all cost and expense incurred by the Association in maintaining said Private Spas, Private Staircases and Awnings. Residential Condominium Unit Owners shall not affix anything to a Private Spa, Private Staircase or Awning or extend or enclose a Private Spa, Private Staircase or Awning.

5.3. Planters. Each area shown on the Survey as a planter ("Planter") shall be a Limited Common Element reserved for the exclusive use of the Residential Condominium Unit Owner of the Residential Condominium Unit adjacent thereto. Such Planters shall be maintained by the Association. The cost and expense incurred by the Association in maintaining said Planters shall be a Common Expense. Residential Condominium Unit Owners shall not affix (including, but not limited to planting) anything in or to a Planter.

5.4. Cleaning of Roof Terraces, Balconies and Private Sundecks. Except for common cleaning, such Roof Terrace, Balcony and Private Sundeck and decorative tiling associated therewith (if any) shall be maintained by the Association. The cost and expense incurred by the Association in maintaining said Roof Terraces, Balconies and Private Sundecks and the decorative tiling associated therewith (if any) shall be a Common Expense. As stated in Section 5.1., Residential Condominium Unit Owners shall not affix anything to a Roof Terrace, Private Sundeck or Balcony or extend or



enclose a Roof Terrace, Private Sundeck or Balcony.

5.5. Limited Common Elements of Commercial Condominium. Areas shown on the survey as "Limited Common Elements" of various commercial units are not a part of the Condominium, but are instead part of the Commercial Condominium. As such, the costs of maintaining such areas shall be a Common Expense of the Commercial Condominium Association.

## 6. UNDIVIDED SHARES IN COMMON ELEMENTS

### 6.1. Appurtenance.

6.1.1. Ownership of the Common Elements and Membership in the Association. Each Residential Condominium Unit shall have as an appurtenance thereto one (1) vote in the Association and an equal undivided share of ownership in the Common Elements expressed as a percentage, the numerator of which is one (1) and the denominator of which is the number of Residential Condominium Units in the Condominium.

6.1.2. Right to Use Common Elements. Each Residential Condominium Unit shall have as an appurtenance thereto the right to use all of the Common Elements (except the Limited Common Elements which are reserved for only certain Residential Condominium Unit Owners) and Condominium Property of the Condominium in accordance with the Condominium Documents and subject to any limitations set forth in such Condominium Documents.

6.2. Share of Common Expenses and Common Surplus. The Common Expenses shall be shared by each Residential Condominium Unit Owner and the Common Surplus shall be owned by each Residential Condominium Unit Owner in the percentage which is equal to the Residential Condominium Unit Owner's share of ownership of the Common Elements.

## 7. PLAN FOR DEVELOPMENT

7.1. Plan for Development. The plan for development of the Building in which the Condominium is located includes (a) the Condominium which contains eighty (80) Residential Condominium Units, (b) the Commercial Parcel which is planned to be a commercial condominium containing a restaurant, deck area, retail space, lobby, offices and restrooms, and (c) the Garage Parcel containing the Parking Garage.

7.2. Rental Manager. The person or entity having the right to utilize the Shared Facilities shall be known as the "Rental Manager." The Rental Manager shall have the right to use the Shared Facilities to carry on a transient or other rental program of the Residential Condominium Units. Part of the facilities which are reserved and will continue to be owned as part of the Shared Facilities shall include in addition to the items and areas referenced herein, the telephone system throughout the Condominium ("Overall Telephone System") provided, however, as otherwise set forth herein, any Residential Condominium Unit Owner or other user of the Residential Condominium Units shall have the right to make local and long distance telephone calls on the Overall Telephone System. The Residential Condominium Unit Owner of the Residential Condominium Unit from which local and

long distance telephone calls were initiated shall be responsible for payment of the same. The Rental Manager shall be responsible, at its sole cost and expense, for the maintenance of the Overall Telephone System. The Rental Manager shall have the right to control long distance access from the Overall Telephone System. Any Residential Condominium Unit Owner is permitted to have private direct service to his/her Residential Condominium Unit, in addition to the Overall Telephone System, at his/her sole cost and expense. Residential Condominium Unit Owners have the right to rent their Residential Condominium Unit(s) without using the services of the Rental Manager. It is intended that there will be a rental operation operated by the Rental Manager, but there is no guarantee such operation will continue because such a rental operation may not be economically feasible, and the Rental Manager has the right to cease or limit its operations as it deems appropriate in its sole and absolute discretion. Further, Rental Manager may or may not affiliate with a chain Residential system or similar operation, although it has no obligation to do so. The Rental Manager may provide cleaning, maid and other services, but shall have no obligation to provide such services. Neither the Association nor the Residential Condominium Unit Owners shall take any action which will interfere with the rights of the Rental Manager, operation of the rental program and the other services incidental thereto, nor shall the Association or the Residential Condominium Unit Owners terminate the Rental Manager or any of its employees as to any services it may provide to the Rental Manager's operation. It is hereby acknowledged that operation of a rental program by any Rental Manager is not and is not intended to be and shall in no event be construed or interpreted to be an agreement entered into by the Association or a condominium management contract pursuant to the provisions of F.S. Section 718.302 of the Act, an agreement for operation, maintenance or management of the Condominium pursuant to F.S. Section 718.3025, a contract for products and services pursuant to F.S. Section 718.3026, a management contract, maintenance contract or other contract pursuant to F.S. Section 718.503(1)(b)(5), or a management contract pursuant to F.S. Section 718.504(11) or F.S. Section 718.504(23[c]). If the Association and the Rental Manager can agree, it is contemplated that personnel will be shared in order to provide for the more economical operation of the Condominium and the Rental Manager's operation, although none of the parties has an obligation to do so, as it may not be possible at some future point for the parties to agree on what would be a fair proportion of such employee's or employees' split of compensation. The rights of the Rental Manager are fully assignable and transferable. The Rental Manager shall have the right, if authorized by any Residential Condominium Unit Owner, to take any actions as to such Residential Condominium Unit Owner's Residential Condominium Unit as if the Rental Agent was the Residential Condominium Unit Owner. If the Rental Manager should cease rental operations for any period of time, that shall not preclude the Rental Manager from later resuming such operations.

## 8. VOTING INTERESTS

8.1. Voting Interest. The Residential Condominium Unit Owner or Residential Condominium Unit Owners, collectively, of the fee simple title of record for each Residential Condominium Unit shall have the right to one (1) vote per Residential Condominium Unit ("Voting Interest") in the Association as to the matters on which a vote by the Residential Condominium Unit Owners is taken as provided in the Condominium Documents and the Act.

8.2. Voting By Corporation or Multiple Residential Condominium Unit Owners. The Voting Interest of the Residential Condominium Unit Owner(s) of any Residential Condominium Unit owned by more than one (1) person, a corporation or other entity, or by one (1) person and a corporation and/or other entity, or by any combination of the aforesaid, shall be cast by the person ("Voting Member") named in a certificate signed by all of the Residential Condominium Unit Owners of such Residential Condominium Unit or, if appropriate, by properly designated officers, principals or general partners of the respective legal entity which owns the Residential Condominium Unit and filed with the Secretary of the Association ("Voting Certificate"). In the alternative, a proxy as to a particular meeting may be executed in the same manner as the Voting Certificate. A proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof; provided, in no event shall any proxy be valid for a period longer than ninety (90) days unless a longer period may be specified by amendment to the Act, in which event such longer period shall apply. If neither a proxy nor a Voting Certificate is on file, the Voting Interest associated with a Residential Condominium Unit where the designation of a Voting Member or execution of a proxy is required shall not be considered in determining a quorum or for any other purpose.

8.3. Ownership by Husband and Wife. Notwithstanding the provisions of Paragraph 8.2 above, whenever any Residential Condominium Unit is owned solely by a husband and wife they may, but shall not be required to, designate a Voting Member. In the event a Voting Certificate designating a Voting Member is not filed by the husband and wife, the following provisions shall govern their right to vote:

(i) Where both husband and wife are present at a meeting, each shall be regarded as the agent and proxy for the other for purposes of casting the Voting Interest for each Residential Condominium Unit owned solely by them. In the event they are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to exercise their Voting Interest on that subject at that meeting.

(ii) Where only one (1) spouse is present at a meeting, the spouse present may exercise the Voting Interest of the Residential Condominium Unit without establishing the concurrence of the other spouse, absent any prior written notice to the contrary to the Association by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Residential Condominium Unit shall not be considered in determining a quorum or for any other purpose unless such prior notice to the contrary has been withdrawn by a subsequent written notice executed by both husband and wife.

(iii) Where neither spouse is present, the person designated in a proxy signed by either spouse may exercise the Voting Interest of the Residential Condominium Unit, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different proxy by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different proxy by the other spouse, the vote of said Residential Condominium Unit shall not be considered in determining a quorum or for any other purpose.

8.4. Voting by Proxy. Except as specifically otherwise provided in the Act, Residential Condominium Unit Owners may vote by general proxy or by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies and general proxies may also be used for voting on the matters outlined in Section 718.112(2)(b)2 of the Act. To the extent permitted by law, a proxy, limited or general, may be used in the election of members of the Board, as provided in Paragraph 8.5 below.

8.5. Elections. The members of the Board shall be elected by written ballot or voting machine in accordance with the provisions of Section 718.112(2)(d)3 of the Act. The members of the Association, however, may vote to conduct elections by proxy, pursuant to Section 718.112(2)(d)8 of the Act. Limited proxies may be used to fill vacancies caused by recall pursuant to Rule 61B-23.0026, F.A.C.

## 9. ASSOCIATION

9.1. Purpose of Association. The Association shall be responsible for the operation of the Condominium. Each Residential Condominium Unit Owner shall be a member of the Association as provided in the Condominium Documents. A copy of the Articles are attached hereto as Exhibit "C" and made a part hereof, and a copy of the Bylaws are attached hereto as Exhibit "D" and made a part hereof.

9.2. Members' Approval of Certain Association Actions. Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of three-fourths (3/4) of all Residential Condominium Unit Owners (at a duly called meeting of the Residential Condominium Unit Owners at which a quorum is present) prior to the payment of or contracting for legal or other fees or expenses to persons or entities engaged by the Association in contemplation of a lawsuit or for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (i) the collection of Assessments;
- (ii) the collection of other charges which Residential Condominium Unit Owners are obligated to pay pursuant to the Condominium Documents;
- (iii) the enforcement of the use and occupancy restrictions contained in the Condominium Documents;
- (iv) the enforcement of the restrictions on the sale and other transfer of Residential Condominium Units contained in the Condominium Documents;
- (v) in an emergency where waiting to obtain the approval of the Residential Condominium Unit Owners creates a substantial risk of irreparable injury to the Condominium Property or the Residential Condominium Unit Owners but, in such event, the aforesaid vote shall be taken with respect to the continuation of the action at the earliest practical date (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the

requisite vote of three-fourths [3/4] of the Residential Condominium Unit Owners); or

(vi) filing a compulsory counterclaim.

9.3. Acquisition of Property. The Association has the power to acquire title to real property or otherwise hold, convey, lease and mortgage property for the use and benefit of the members. The purchase and conveyance of real property must be approved by the affirmative vote of sixty percent (60%) of the Residential Condominium Unit Owners present at a duly called meeting of the Residential Condominium Unit Owners at which a quorum is present.

The Association shall have the right to make or cause to be made changes and improvements ("Alterations") to the Common Elements and Limited Common Elements which are approved by the Board and which do not prejudice the rights of any Residential Condominium Unit Owner or Institutional Mortgagee. In the event such changes or improvements prejudice the rights of a Residential Condominium Unit Owner or Institutional Mortgagee, the consent of such Residential Condominium Unit Owner or Institutional Mortgagee so prejudiced shall be required before such Alterations can be made or caused. If the cost of the Alterations exceeds Twenty-Five Thousand Dollars (\$25,000.00), the affirmative vote of fifty-one percent (51%) of the Residential Condominium Unit Owners, in accordance with the Condominium Documents, shall be required in addition to such Board approval, and the cost of such Alterations shall be assessed against the Residential Condominium Unit Owners in the manner provided in the Condominium Documents.

9.4. Conveyance to Association. Notwithstanding anything contained in this Declaration to the contrary, the Association is obligated to accept any and all conveyances to it by Developer, or any related or affiliated entity of Developer, of a fee simple title, or easements or leases, to all or portions of any property of any such entities.

9.5. Conveyance by Association. The Association is empowered to delegate any of its functions or convey any of its property to the Master Association or any governmental entity as may be required or deemed necessary from time to time.

## 10. EASEMENTS

10.1. Perpetual Nonexclusive Easement to Public Ways, the Condominium Property and the Condominium Common Elements. The walks and other rights-of-way, if any, in this Condominium, as shown on the Survey attached hereto and incorporated herein by reference as Exhibit "B", or hereafter located within the Condominium, shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive easement for ingress and egress and access to, from, over and across the same, to public ways, the access areas and the Condominium Property, which easement is hereby created in favor of all the Residential Condominium Unit Owners in the Condominium and in favor of other Owners and "Condominium Unit Owners" (as defined in the Master Declaration) in the Building now or hereafter existing, for their use and for the use of their family members, guests, lessees or invitees for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended, including ingress and egress for the furnishing of services by fire protection agencies, police and other authorities of

the law, United States mail carriers, representatives of public utilities, including, but not limited to, telephone, electric power, sewer, water, gas, drainage, irrigation, lighting, television transmission, cable television and communications systems transmission, reception and monitoring, security, garbage and waste removal and the like, restaurant room service, Residential-related services and the like and for all purposes incidental thereto and other utilities or services authorized by Developer, its successors or assigns to service the Condominium Property, and such other persons as Developer from time to time may designate, for performing their authorized services. Developer hereby reserves unto itself, its successors, assigns, designees and nominees, and hereby grants to the Association, the right to grant easements, permits and licenses over the Common Elements and to impose upon the Common Elements henceforth and from time to time such easements and cross-easements for any of the foregoing purposes as it deems to be in the best interests of and necessary and proper for the Condominium. The Association shall have the right to establish the rules and regulations governing the use and enjoyment of the Common Elements and all easements over and upon same provided same shall not interfere with use of the Residential Condominium Units for the operation of a resort Residential and further provided that (i) such rules and regulations shall be subject to the Master Declaration and (ii) any such rules and regulations shall not prohibit other Owners, Condominium Unit Owners and lessees in the Building from using the elevators.

10.2. Easements and Cross-Easements on Common Elements. Developer hereby reserves unto itself, its successors, assigns, designees and nominees, and hereby grants to the Association, the right to grant easements, permits and licenses over the Common Elements and to impose upon the Common Elements henceforth and from time to time such easements and cross-easements for ingress, egress, parking, and for the installation, maintenance, construction and repair of facilities, including, but not limited to, electric power, telephone, sewer, water, gas, drainage, irrigation, lighting, television transmission, cable television and communications systems transmission, reception and monitoring, security, pest control, garbage and waste removal and the like and for all purposes incidental thereto as it deems to be in the best interests of and necessary and proper for the Condominium. Developer also hereby reserves a blanket easement over, under, upon and through the Condominium Property for any purpose whatsoever.

10.3. Easement for Encroachments.

10.3.1. Settlement or Movement of Improvements. All the Condominium Property shall be subject to easements for encroachments, which now or hereafter exist, caused by settlement or movement of any improvements upon such areas or improvements contiguous thereto or caused by minor inaccuracies in the building or rebuilding of such improvements.

10.3.2. Air Space. All the Condominium Property and improvements thereon, including, but not limited to, the portion of the Building containing the Condominium, shall be subject to perpetual easements for encroachments, for so long as such encroachment exists, in favor of each Residential Condominium Unit and the Residential Condominium Unit Owners thereof, their family members, guests, invitees and lessees for air space for any Roof Terrace, Private Sundeck or Balcony, if applicable, of any Residential Condominium Unit, and the reasonable use, maintenance and repair of same, which extends under, over or through any of the Condominium Property and

improvements thereon. Such easements shall be appurtenances to and a covenant running with the respective Residential Condominium Unit in whose favor such easements exist.

10.3.3. Term of Encroachment Easements. The above easements for encroachments shall continue until such encroachments no longer exist.

10.4. Specific Easements. In addition to the easements set forth elsewhere in this Declaration, there shall be the following specific grants and/or reservations of easement:

(a) A perpetual non-exclusive easement granted in favor of the Master Association for (i) the placement of one (1) or more cooling towers on the upper roof of the Building, (ii) the placement of one (1) or more mechanical rooms on the upper roof of the Building, and (iii) a perpetual non-exclusive easement on, over and across the upper roof of the Building for entry and access purposes in order to access, service, repair, maintain and replace the cooling tower(s), mechanical room(s) and the equipment and machinery located therein.

(b) A perpetual non-exclusive easement in favor of the Master Association on, over and across the upper roof of the Building for entry and access purposes in order to access, service, repair, maintain and replace the sub-roof and upper roof.

(c) A perpetual exclusive easement in favor of Developer for the use of the housekeeping closets identified as Limited Common Elements of Unit E on Exhibit "B" attached hereto and made a part hereof; provided however, the Residential Condominium Association shall have the duty and responsibility of maintaining and repairing said housekeeping rooms as a common expense of the Residential Condominium Unit Owners. Such exclusive easement in favor of Developer is assignable in whole or in part.

10.5. Reservation for Periodic Inspections. Developer shall have the right, but not the obligation, to conduct inspections of and tests on, from time to time, all or any parts of the Common Elements and improvements thereon in order to ascertain the physical condition of the Common Elements and improvements thereon and to determine whether maintenance, repair or replacement of the Common Elements or improvements thereon is indicated. If Developer conducts any such tests or inspections, it shall pay all costs thereof, restore the affected portion of the Condominium Property to its condition immediately prior to the inspections and tests, and shall indemnify the Association and the Residential Condominium Unit Owner(s) of any affected Residential Condominium Unit(s) from any damages resulting therefrom. Developer hereby reserves the right of entry on, over, under, across and through the Condominium Property as may be reasonably necessary for the foregoing purposes.

## 11. LIABILITY INSURANCE PROVISIONS

11.1. Public Liability Insurance. The Board shall obtain liability insurance in the form generally known as Public Liability and/or Owners, Landlord and Tenant Policies, or alternatively, in the event Developer so elects, the Association shall be covered under Developer's insurance, in such amounts as it may determine from time to time for the purpose of providing liability insurance coverage for all property and improvements in the Condominium, excluding the Residential Condominium Units; provided, however, that such policy or policies shall not have limits of less

than One Million (\$1,000,000.00) Dollars covering all claims for personal injury and One Million (\$1,000,000.00) Dollars for property damage arising out of a single occurrence. The Board shall collect and enforce the payment of a share of the premium for such insurance from each Residential Condominium Unit Owner as a part of the Annual Assessment. Said insurance shall include, but not be limited to, legal liability for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of any property or improvements within the Condominium Property, legal liability arising out of lawsuits related to employment contracts of the Association, water damage, liability for hazards related to usage and liability for property of others, hired automobile, non-owned automobile and off-premises employee coverage and such other risks as are customarily covered with respect to developments similar to the Condominium in construction, location and use. All such policies shall name the Association (and Developer so long as Developer shall own any of the Condominium Property, as their respective interests may appear) as the insured(s) under such policy or policies. The original or a true copy of each policy shall be held in the office of the Association. The insurance purchased shall contain a "severability of interest endorsement," and waiver of subrogation or equivalent coverage, which would preclude the insurer from denying the claim of a Residential Condominium Unit Owner because of the negligent acts of either the Association, Master Association, Developer or any other Condominium Unit Owner or deny the claim of either Developer or the Association because of the negligent acts of the other or the negligent acts of the Master Association, an Owner or Condominium Unit Owner. All liability insurance shall contain cross liability endorsements to cover liabilities of the Residential Condominium Unit Owners as a group to a Residential Condominium Unit Owner. Each Residential Condominium Unit Owner shall be responsible for the purchasing of liability insurance for accidents occurring in his or her own Residential Condominium Unit and, if the Residential Condominium Unit Owner so determines or as otherwise required, for supplementing any insurance purchased by the Association. Notwithstanding the foregoing, in the event the Board determines that the cost of public liability insurance is economically unwarranted, the Board may determine to either reduce the amount of such insurance, increase the deductible amount or discontinue coverage.

11.2. Fidelity Insurance. Adequate fidelity coverage to protect against dishonest acts of the officers, directors and employees of the Association as well as all others who handle and are responsible for handling funds of the Association (whether or not they receive compensation), shall be maintained. Such coverage shall be in the form of fidelity bonds which meet the following requirements: (i) such bonds shall name the Association as an obligee and premiums therefor shall be paid by the Association; (ii) such bonds shall be written in such amounts as set forth in F.S. Section 718.111(11)(d) (in the event that the Act does not specify an amount then the bonds shall be written in an amount equal to at least one (1) quarter's aggregate Assessments for all Residential Condominium Units , plus reserve funds, if any); and (iii) such bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

11.3. Cancellation Provision. All insurance policies or fidelity bonds purchased pursuant to this Article 11 shall provide that they may not be canceled without at least ten (10) days' prior written notice to the Association and to Listed Mortgagees.



## 12. PROVISIONS RELATING TO CASUALTY INSURANCE AND DESTRUCTION OF IMPROVEMENTS

12.1. Hazard Insurance. Each Residential Condominium Unit Owner shall be responsible for the purchase of casualty insurance for all of his or her personal property including the following equipment, if any, located within his or her Residential Condominium Unit, electrical fixtures, appliances, air conditioning or heating equipment, water heaters and built-in cabinets. Each Residential Condominium Unit Owner shall also carry loss assessment insurance in the amount of at least Twenty-Five Thousand (\$25,000) Dollars as to each Residential Condominium Unit. The Association shall obtain casualty insurance with such coverage and in such amounts as it may determine from time to time for the purpose of providing casualty insurance coverage for all insurable property and improvements within the Condominium, including Fire and Extended Coverage and Vandalism and Malicious Mischief Insurance, all of which insurance shall insure all of the insurable improvements on or within the Condominium Property, including personal property owned by the Association, in and for the interest of the Association, all Residential Condominium Unit Owners and their mortgagees, as their interests may appear, with a company (or companies) acceptable to the standards set by the Board. The Association shall purchase insurance for the Condominium Property in an amount equal to one hundred percent (100%) of the "Replacement Value" thereof. The term "Condominium Property" as used in this Article 12 does not include Residential Condominium Unit floor coverings, wall coverings or ceiling coverings. The term "Replacement Value" shall mean one hundred percent (100%) of the current replacement costs exclusive of land, foundation, excavation, items of personal property and other items normally excluded from coverage as determined annually by the Board. The Board may determine the kind of coverage and proper and adequate amount of insurance. The casualty insurance shall contain an "agreed amount endorsement" or its equivalent, "inflation guard endorsement," and, if determined necessary, an "increased cost of construction endorsement" or "contingent liability from operation of building laws endorsement" or a "demolition endorsement" or the equivalent. The casualty insurance shall insure the Condominium Property from loss or damage caused by or resulting from fire and other hazards covered by the standard extended coverage endorsement and such other risks as shall customarily be covered with respect to projects or developments similar to the Condominium Property in construction, location and use.

12.2. Flood Insurance. If determined appropriate by the Board or if required by any Institutional Mortgagee, the Association shall obtain a master or blanket policy of flood insurance covering all property and improvements on or within the Condominium Property, if available, under the National Flood Insurance Program, which flood insurance shall be in the form of a standard policy issued by a member of the National Flood Insurers Association, and the amount of the coverage of such insurance shall be the lesser of the maximum amount of flood insurance available under such program or one hundred percent (100%) of the current replacement cost of the Condominium Property and other insurable property located in the flood hazard area.

12.3. Form of Policy and Insurance Trustee. The Association may, to the extent possible and not inconsistent with the foregoing, obtain one (1) policy to insure all of the insurable improvements within the Condominium operated by the Association. The premiums for such coverage and other expenses in connection with said insurance shall be paid by the Association and

assessed as part of the Annual Assessment. The company (or companies) with which the Association shall place its insurance coverage, as provided in this Declaration, must be a good and responsible company (or companies) authorized to do business in the State of Florida. Whenever possible, as determined by the Board, the Association shall utilize the same insurance company (or companies) and agents as are utilized by the Master Association so as to avoid gaps and overlaps in coverage. In addition, the insurance agent must be located in the State of Florida. The Association shall utilize the same trustee ("Insurance Trustee") as is utilized by the Master Association. The Lead Mortgagee shall have the right, for so long as it holds the highest dollar indebtedness encumbering Residential Condominium Units within the Condominium, to approve: (i) the form of the insurance policies; (ii) the amounts thereof; (iii) the company or companies which shall be the insurers under such policies; and (iv) the insurance agent or agents, which approval(s) shall not be unreasonably withheld or delayed.

12.4. Required Policy Provisions. All such aforesaid policies shall provide that they may not be canceled without at least ten (10) days' prior written notice to the Association and Listed Mortgagees and shall be deposited with the Insurance Trustee upon its written acknowledgment that the policies and any proceeds thereof will be held in accordance with the terms hereof. Said policies shall provide that all insurance proceeds payable on account of loss or damage shall be payable to the Insurance Trustee. In the event of a casualty loss, the Insurance Trustee may deduct from the insurance proceeds collected a reasonable fee for its service as Insurance Trustee. The Association is hereby irrevocably appointed agent for each Residential Condominium Unit Owner to adjust all claims arising under insurance policies purchased by the Association. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of the policies nor for the failure to collect any insurance proceeds.

12.5. Restrictions on Mortgagees. No mortgagee shall have any right to participate in the determination of whether property is to be rebuilt, nor shall any mortgagee have the right to apply insurance proceeds to repayment of its loan unless such proceeds are distributed to Residential Condominium Unit Owners and/or their respective mortgagees.

12.6. Distribution of Insurance Proceeds and Losses. The duty of the Insurance Trustee shall be to receive any and all proceeds from the insurance policies held by it and to hold such proceeds in trust for the Association, Residential Condominium Unit Owners and mortgagees under the following terms:

12.6.1. Loss to Residential Condominium Unit Alone. In the event a loss, insured under the policies held by the Insurance Trustee, occurs to any improvements within any of the Residential Condominium Units alone, without any loss to any other improvements within the Condominium, the Insurance Trustee shall immediately pay all proceeds received because of such loss directly to the Residential Condominium Unit Owners of the Residential Condominium Units damaged and their mortgagees, if any, as their interests may appear, and it shall be the duty of these Residential Condominium Unit Owners to use such proceeds to effect necessary repair to the Residential Condominium Units. The Insurance Trustee may rely upon the written statement of the Association as to whether or not there has been a loss to the Residential Condominium Units alone, the Common Elements or any combination thereof.

12.6.2. Loss to Residential Condominium Units and Common Elements. In the event that a loss occurs to improvements within one (1) or more Residential Condominium Units and to improvements within Common Elements contiguous thereto, or to improvements within the Common Elements, the Insurance Trustee shall pay the proceeds received as a result of such loss to the Association. Upon receipt of such proceeds, the Association will cause the necessary repairs to be made to the improvements within the Common Elements and within the damaged Residential Condominium Units. In such event, should the insurance proceeds be sufficient to repair the improvements within the Common Elements but insufficient to repair all of the damage within the Residential Condominium Units, the proceeds shall be applied first to completely repair the improvements within the Common Elements and the balance of the funds ("Balance") shall be apportioned by the Association to repair the damage to the improvements within Residential Condominium Units, which apportionment shall be made to each Residential Condominium Unit in accordance with the proportion of damage sustained to improvements within said Residential Condominium Units as estimated by the insurance company whose policy covers such damage. Any deficiency between the Balance apportioned to a damaged Residential Condominium Unit and the cost of repair shall be paid by a Special Assessment levied against all of the Residential Condominium Unit Owners.

12.6.3. In the event the Insurance Trustee receives proceeds as a result of damages to the improvements within the Common Elements and/or Residential Condominium Units and Common Elements that are contiguous, then the Insurance Trustee shall hold, in trust, all insurance proceeds received with respect to such damage, together with any and all other funds paid as hereinafter provided, and shall distribute the same as follows:

(a) The Board shall obtain or cause to be obtained reliable and detailed estimates and/or bids for the cost of rebuilding and reconstructing the damage and for the purpose of determining whether insurance proceeds are sufficient to pay for the same.

(b) In the event the insurance proceeds are sufficient to rebuild and reconstruct all the damaged improvements, or upon the collection of the necessary funds that are described in subparagraph 12.6.3 (c) below, then the damaged improvements shall be completely repaired and restored. In this event, all payees shall deliver paid bills and waivers of mechanics' liens to the Insurance Trustee and execute affidavits required by law, by the Association, by any Institutional Mortgagee named on a mortgage endorsement or by the Insurance Trustee, and shall deliver the same to the Insurance Trustee. Further, the Association shall negotiate and obtain a contractor willing to do the work on a fixed price basis or some other reasonable terms under the circumstances, which contractor shall post a performance and payment bond, and the Insurance Trustee shall disburse the insurance proceeds and other funds held in trust in accordance with the progress payments contained in the construction contract between the Association and the contractor. Subject to the foregoing, the Board shall have the right and obligation to negotiate and contract for the repair and restoration of the premises.

(c) In the event the insurance proceeds are insufficient to repair and replace all of the damaged improvements within the Common Elements and Residential Condominium Units contiguous to such damaged Common Elements, the Board shall hold a special meeting to determine a Special Assessment against all of the Residential Condominium Unit Owners to obtain any necessary funds to repair and to restore such damaged improvements. Upon the determination by the Board of the amount of such Special Assessment, the Board shall immediately levy such Special Assessment against the Residential Condominium Units setting forth the date or dates of payment of the same, and any and all funds received from the Residential Condominium Unit Owners pursuant to such Special Assessment shall be delivered to the Insurance Trustee and disbursed as provided in subparagraph 12.6.3 (b) immediately preceding.

12.6.4. Distribution of Excess Funds. In the event that, after the completion of and payment for the repair and reconstruction of the damage to the damaged property and after the payment of the Insurance Trustee's fee with respect thereto, any excess insurance proceeds remain in the hands of the Insurance Trustee, then the Insurance Trustee shall divide the net insurance proceeds into the shares described in Article 6 hereof and shall promptly pay each share of such proceeds to the Residential Condominium Unit Owners and mortgagees of record as their interests may appear ("Insurance Proceeds Distribution"). In making any such Insurance Proceeds Distribution to the Residential Condominium Unit Owners and mortgagees, the Insurance Trustee may rely upon a certificate of an abstract company as to the names of the then Residential Condominium Unit Owners and their respective mortgagees. However, in the event such repairs and replacements were paid for by any Special Assessment as well as insurance proceeds, then it shall be presumed that the monies disbursed in payment of any repair, replacement and reconstruction were first disbursed from insurance proceeds and any remaining funds held by the Insurance Trustee shall be distributed to the Residential Condominium Unit Owners in proportion to their contributions by way of Special Assessment.

12.6.5. Institutional Mortgagees. No mortgagee shall have the right to require the application of any insurance proceeds or Special Assessment to the payment of its loan. Any provision contained herein for the benefit of any mortgagee may be enforced by a mortgagee.

12.6.6. Repair of Damaged Property. Any repair, rebuilding or reconstruction of damaged property shall be substantially in accordance with the architectural plans and specifications for the Condominium, as: (i) originally constructed; (ii) reconstructed; or (iii) new plans and specifications approved by Developer; provided, however, any material or substantial change in new plans and specifications approved by Developer from the plans and specifications of the Condominium as previously constructed shall require approval by the Lead Mortgagee.

12.6.7. Determination of Damage. The Board shall determine, in its sole and absolute discretion, whether damage or loss has occurred to improvements within Residential Condominium Units alone, Common Elements alone or to improvements within any combination thereof.

12.6.8. Insurance Amounts. Notwithstanding anything in this Article 12 to the contrary, the amounts set forth for the purchase of insurance in this Article 12 are the minimum amounts to be purchased under the requirements of this Declaration. Therefore, Residential

Condominium Unit Owners or the Association, as the case may be, may purchase insurance in excess of the amounts set forth herein. Notwithstanding anything in this Declaration to the contrary, the Board has the right and authority to determine the amount of any financially reasonable deductibles, the amount of which may be substantial, and to determine the types and amounts of coverage, based on costs, availability and limitations of coverage. For example, at the time of the writing of this Declaration, it is contemplated that there will be a two percent (2%) deductible with respect to named tropical storms and hurricanes for wind damage. The amounts set forth do not constitute a representation or warranty of any kind by Developer or the Association as to the proper amount or kinds of insurance required.

12.6.9. Miscellaneous Policy Requirements. Policies insuring the property within the Condominium, purchased pursuant to the requirements of this Article 12, shall provide that any insurance trust agreement shall be recognized; the right of subrogation against Residential Condominium Unit Owners will be waived; the insurance will not be prejudiced by any acts or omission of individual Condominium Unit Owners who are not under the control of the Association; and the policy will be primary, even if a Residential Condominium Unit Owner has other insurance that covers the same loss.

12.6.10. Master Form of Insurance. Nothing contained herein shall prohibit the Association from obtaining a "Master" or "Blanket" form of insurance to meet the requirements of this Article 12, provided that the coverages required hereunder are fulfilled.

### 13. PROVISIONS RELATING TO CONDEMNATION OR EMINENT DOMAIN PROCEEDINGS

13.1. Proceedings. The Association shall represent the Residential Condominium Unit Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Elements or any parts thereof by the condemning authority.

13.2. Deposit of Awards With Insurance Trustee. The taking of any portion of the Condominium Property by condemnation shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee. Although the awards may be payable to Residential Condominium Unit Owners, the Residential Condominium Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board, a special charge shall be made against a defaulting Residential Condominium Unit Owner in the amount of his or her award, or the amount of that award shall be set off against the sums hereafter made payable to that Residential Condominium Unit Owner.

13.3. Disbursement of Funds. If the Condominium is terminated in accordance with the provisions of this Declaration after condemnation, the proceeds of the awards and Special Assessments, if any, shall be deemed to be Condominium Property and shall be divided into the shares described in this Declaration and distributed to the Residential Condominium Unit Owners and mortgagees as their interests may appear. If the Condominium is not terminated after

condemnation, the size of the Condominium will be reduced, the Residential Condominium Unit Owners of the condemned Residential Condominium Units will be made whole and the Condominium Property damaged by the taking will be made usable in the manner provided below.

13.4. Residential Condominium Unit Reduced But Tenantable. If the taking reduces the size of a Residential Condominium Unit ("Affected Residential Condominium Unit") and the remaining portion of the Affected Residential Condominium Unit can be made tenantable, the award for the taking of a portion of the Affected Residential Condominium Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

13.4.1. Affected Residential Condominium Unit Made Tenantable. The Affected Residential Condominium Unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be collected as a special charge.

13.4.2. Excess Distributed to Residential Condominium Unit Owner and Institutional Mortgagee. The balance of the award, if any, shall be distributed to the Residential Condominium Unit Owner of the Affected Residential Condominium Unit and to each Institutional Mortgagee of the Affected Residential Condominium Unit, the remittance being made payable to the Residential Condominium Unit Owner and Institutional Mortgagees as their interests may appear.

13.5. Affected Residential Condominium Unit Made Untenantable. If the taking is of the entire Affected Residential Condominium Unit or so reduces the size of an Affected Residential Condominium Unit that it cannot be made tenantable, the award for the taking of the Affected Residential Condominium Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

13.5.1. Payment to Residential Condominium Unit Owner and Institutional Mortgagee. The market value of the Affected Residential Condominium Unit immediately prior to the taking shall be paid to the Residential Condominium Unit Owner thereof and to each Institutional Mortgagee thereof as their interests may appear.

13.5.2. Remaining Portion of Affected Residential Condominium Unit. The remaining portion of the Affected Residential Condominium Unit, if any, shall be released by the Institutional Mortgagee and conveyed by the Residential Condominium Unit Owner to the Association. Such remaining portion of the Affected Residential Condominium Unit shall become a part of the Common Elements and shall be placed in a condition approved by the Board and the Condominium Documents shall be amended to reflect the addition of such Common Elements; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking after the payment set forth in subparagraph 13.5.1 above, the work shall be approved in the manner required for further improvement of the Common Elements.

13.5.3. Adjustment in Shares of Common Elements. The shares in the Common Elements appurtenant to the Residential Condominium Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements from the

Affected Residential Condominium Units among the reduced number of Residential Condominium Units. The shares of the continuing Residential Condominium Units in the ownership of the Common Elements shall be restated with the percentage of ownership in the Common Elements of the Affected Residential Condominium Unit being allocated to all the continuing Residential Condominium Units in proportion to their relative share of ownership in the Common Elements.

13.5.4. Insufficient Award. If the amount of the award for the taking is not sufficient to pay the market value of the Affected Residential Condominium Unit to the Residential Condominium Unit Owner and to condition the remaining portion of the Affected Residential Condominium Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by Special Assessments against all of the Residential Condominium Unit Owners who will continue as Residential Condominium Unit Owners after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Residential Condominium Unit Owners in the Common Elements after the changes effected by the taking.

13.5.5. Determination of Market Value of Affected Residential Condominium Unit. If the market value of an Affected Residential Condominium Unit prior to the taking cannot be determined by agreement between the Residential Condominium Unit Owner, the Institutional Mortgagees of the Affected Residential Condominium Unit and the Association within thirty (30) days after notice by any party, the value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Affected Residential Condominium Unit; and the determination of the arbitrators shall be conclusive upon the parties and judgment upon the same may be entered in any court having jurisdiction thereof. The cost of arbitration proceedings shall be assessed against all Residential Condominium Units in proportion to the shares of the Residential Condominium Units in the Common Elements as they exist prior to the changes effected by the taking.

13.6. Taking of Common Elements. Awards for taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board; provided, that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required for further improvement of the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Residential Condominium Unit Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation and to Institutional Mortgagees as their interests may appear.

13.7. Amendment of Declaration. The changes in Residential Condominium Units, in the Common Elements and in the ownership of the Common Elements that are affected by the condemnation shall be evidenced by an amendment to the Declaration that need be approved only by a majority of the Board unless written approvals from Developer and/or Listed Mortgagees are also required pursuant to this Declaration. Such amendment shall be evidenced by a certificate executed by the Association in recordable form in accordance with the Act, and a true copy of such

amendment shall be mailed via first class mail by the Association to Developer for so long as Developer holds any Residential Condominium Units in the ordinary course of business, all Residential Condominium Unit Owners and Listed Mortgagees ("Interested Parties"). As used in this Declaration, the phrase "ordinary course of business" shall mean any method of sale employed by Developer to sell Residential Condominium Units, including, but not limited to, having a sales office, using the services of any broker or advertising Residential Condominium Units for sale. The amendment shall become effective upon the recording of such certificate amongst the Public Records of the County; provided, however, such amendment shall not be recorded until thirty (30) days after the mailing of a copy thereof to the Interested Parties unless such thirty (30) day period is waived in writing by the Interested Parties.

#### 14. PROVISION FOR APPORTIONMENT OF TAX OR SPECIAL ASSESSMENT IF LEVIED AND ASSESSED AGAINST THE CONDOMINIUM AS A WHOLE

14.1. New Total Tax. In the event that any taxing authority having jurisdiction over the Condominium shall levy or assess any tax or special assessment against the Condominium as a whole as opposed to levying and assessing such tax or special assessment against each Residential Condominium Unit and its appurtenant undivided interest in the Common Elements, notwithstanding the requirement of Section 718.120(1) of the Act, as now provided by law ("New Total Tax"), then such New Total Tax shall be paid as a Common Expense by the Association, and any taxes or special assessments which are to be so levied shall be included wherever possible in the estimated annual Budget of the Association or shall be separately levied and collected as a Special Assessment by the Association against all of the Residential Condominium Unit Owners of all Residential Condominium Units. Each Residential Condominium Unit Owner shall be assessed by and shall pay to the Association a percentage of the New Total Tax equal to that Residential Condominium Unit Owner's percentage interest in the Common Elements. In the event that any New Total Tax shall be levied, then the Assessment by the Association shall separately specify and identify the portion of such Assessment attributable to such New Total Tax and such portion shall be and constitute a lien prior to all mortgages and encumbrances upon any Residential Condominium Unit and its appurtenant percentage interest in the Common Elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrances, to the same extent as though such portion of New Total Tax had been separately levied by the taxing authority upon each Residential Condominium Unit and its appurtenant percentage interest in the Common Elements.

14.2. Personal Property Taxes. All personal property taxes levied or assessed against personal property owned by the Association and all federal and state income taxes levied and assessed against the Association shall be paid by the Association and shall be included as a Common Expense in the Budget of the Association.

#### 15. OCCUPANCY AND USE RESTRICTIONS

In order to preserve the values and amenities of the Condominium, the following provisions shall be applicable to the Condominium Property:



15.1. Residential Condominium Unit Use. The Residential Condominium Units shall be used for residential purposes subject to applicable zoning requirements, including transient lodging facilities. Residential Condominium Units may be rented on a daily or longer basis, occupied by the Residential Condominium Unit Owner or anyone else designated by the Residential Condominium Unit Owner, or through any rental program that the Residential Condominium Unit Owner chooses to participate in, if applicable. The only obligation is that the Residential Condominium Unit Owner or the other person or entity renting the Residential Condominium Unit on behalf of the Residential Condominium Unit Owner, or otherwise allowing the use of the Residential Condominium Unit, shall notify the Association. Further, Residential Condominium Units shall have no more than four (4) persons in residence at any one time.

15.2. Conveyances, Transfer and Encumbrances of Residential Condominium Units.

15.2.1 Conveyances. In order to insure a community of congenial residents and thus protect the value of the Residential Condominium Units, the sale or exchange of a Residential Condominium Unit by any Residential Condominium Unit Owner other than Developer shall be subject to the following provisions so long as the Condominium exists:

(i) Any Residential Condominium Unit Owner who enters into an agreement to sell his or her Residential Condominium Unit (for purposes of this Paragraph 15.2, "Seller"), shall within ten (10) days after the execution of such agreement furnish to the Association written notice of the name or names and address or addresses of the proposed purchaser or purchasers, together with a copy of the said purchase agreement which identifies the Residential Condominium Unit being sold. The Seller shall also furnish the Association with such other information as the Association may reasonably require. Notice shall not be deemed to be given if it is erroneous in any material aspect.

(ii) Upon receipt by the Association of that required in subparagraph (i) of this subparagraph 15.2.1, the Association shall have twenty (20) days from receipt to approve or disapprove the proposed purchaser. If the Association disapproves the proposed purchaser, the Association shall, within thirty (30) days after the Association received notice from the Seller of the proposed sale, furnish Seller with an approved purchaser who will accept terms of sale as favorable to Seller as those terms initially set forth in the notice to the Association by Seller. In the event that the Association does not furnish to Seller a substitute purchaser in the manner provided above, Seller shall be free to sell his or her Residential Condominium Unit to the purchaser initially proposed by Seller, and the Association shall provide said purchaser with a certificate of approval. Any approval by the Association shall be in recordable form and delivered by the Association to the purchaser, and except as otherwise provided herein, no sale of any Residential Condominium Unit shall be valid without such approval.

(iii) Every purchaser who acquires any interest in a Residential Condominium Unit shall acquire the same subject to the Act.

(iv) The Board shall have the right and power to establish and assess a reasonable "transfer fee" as provided by Section 718.112(2)(i) of the Act, to be paid by the transferor

(other than the Developer) of a Residential Condominium Unit as a condition precedent to the validity of the transfer.

15.2.2. Deceased Owners.

(i) If a Residential Condominium Unit Owner should die and the title to his or her Residential Condominium Unit shall pass to his or her surviving spouse or to any immediate member of his or her family, such successor in title shall fully succeed to the ownership, rights, duties and obligations of the Residential Condominium Unit Owner, the provisions of subparagraph (i) of subparagraph 15.2.1 hereinabove notwithstanding.

(ii) (a) If title to the Residential Condominium Unit of a deceased Residential Condominium Unit Owner shall pass to any person other than a person or persons designated in subparagraph (i) above, then such person shall give the Association the notice required in subparagraph 15.2.1 of this Declaration. Within thirty days after receipt of such notice and all information required hereunder, the Association must either approve or disapprove the continuance of such successor in title's ownership of the Residential Condominium Unit.

(b) If approved, the approval shall be stated in a certificate executed by the President (or a Vice President) of the Association in recordable form, and shall be delivered to the new Residential Condominium Unit Owner for recording in the Public Records of the County at the expense of the Residential Condominium Unit Owner.

(c) If the Association shall disapprove the transfer of ownership to a Residential Condominium Unit to such successor in title, the Residential Condominium Unit Owner shall be advised of the disapproval in writing within thirty (30) days after the Association's receipt of the notice and all information required hereunder; in such event, within forty-five (45) days after receipt from the Residential Condominium Unit Owner of the notice and information required to be furnished hereunder, the Association shall deliver or mail by certified mail to the Residential Condominium Unit Owner, an agreement to purchase ("approved contract") by a purchaser (which may be the Association or any other person or legal entity) approved by the Association who will purchase, and to whom the Residential Condominium Unit Owner must sell the Residential Condominium Unit upon the following terms:

(1) The sale price shall be the fair market value of the Residential Condominium Unit determined by agreement between the seller and purchaser within twenty (20) days from the delivery or mailing by the Association of the approved contract. In the absence of such agreement, the sale price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Residential Condominium Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(2) The purchase price shall be paid in U.S. cash.

(3) The sale shall close within forty-five (45) days following the determination of the sale price. A certificate of the Association approving the purchaser, executed by its President (or a Vice President), in recordable form, shall be recorded in the Public Records of the County at the expense of the purchaser.

(4) The approved contract must be executed by the Residential Condominium Unit Owner and returned to the Association within ten (10) days after the Residential Condominium Unit Owner receives said approved contract.

(5) If the Association shall fail to provide a purchaser as herein required, or if a purchaser furnished by the Association shall default under the approved contract, then notwithstanding the disapproval or default, such ownership of the Residential Condominium Unit Owner shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the Public Records of the County at the expense of the Residential Condominium Unit Owner.

(iii) Nothing in this Paragraph 15.2.2 shall be deemed to reduce, forgive or abate any amounts due the Association from the Residential Condominium Unit Owner at the time of his or her death, nor the Assessments attributable to the Residential Condominium Unit becoming due after the Residential Condominium Unit Owner's death.

#### 15.2.3. Liens.

(i) Protection of Property. All liens against a Residential Condominium Unit other than for mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and special assessments upon a Residential Condominium Unit shall be paid before they become delinquent.

(ii) Notice of Lien. A Residential Condominium Unit Owner shall give notice to the Association of every lien against his or her Residential Condominium Unit other than mortgages, taxes, and special assessments within five (5) days after the lien has attached.

(iii) Notice of Suit. Every Residential Condominium Unit Owner shall give notice to the Association of every suit or other proceeding which may affect the title to his or her Residential Condominium Unit, such notice to be given within five (5) days after the Residential Condominium Unit Owner receives actual notice thereof.

(iv) Failure of Compliance. Failure to comply with this section concerning liens will not affect the validity of any judicial sale.

15.2.4. Rights of Institutional Mortgagees. The provisions of this Paragraph 15.2 shall in no way be construed as affecting the rights of an Institutional Mortgagee owning a recorded institutional first mortgage on any Residential Condominium Unit and the rights hereinabove set forth shall remain subordinate to any such institutional first mortgage. Further, the provisions of this

Paragraph 15.2 shall not be applicable to purchasers at foreclosure or other judicial sales of Institutional Mortgagees, or to transfers to Institutional Mortgagees or to Developer.

15.2.5. Unauthorized Transaction. Any sale which is not authorized pursuant to the terms of this Declaration shall be voidable by the Association unless subsequently approved by the Association, which approval shall be in the form specified in subparagraph (ii) of subparagraph 15.2.1 hereinabove. Notwithstanding anything herein to the contrary, there are no restrictions on the transfer of the rights of the Rental Manager.

15.2.6. Remedies for Violation. Each Residential Condominium Unit Owner shall be governed by and shall comply with the Act and all of the Condominium Documents as such Condominium Documents may be amended and supplemented from time to time. Failure to do so shall entitle the Association, any Residential Condominium Unit Owner or any Institutional Mortgagee holding a mortgage on any portion of the Condominium Property to sue for injunctive relief, for damages or for both, and such parties shall have all other rights and remedies which may be available at law or in equity. The failure to enforce promptly any of the provisions of the Condominium Documents shall not bar their subsequent enforcement. In any proceeding arising because of an alleged failure of a Residential Condominium Unit Owner to comply with the terms of the Condominium Documents, the prevailing party shall be entitled to recover the costs of the proceeding and Legal Fees. The failure of the Board to object to Residential Condominium Unit Owner's or other party's failure to comply with covenants or restrictions contained herein or in any of the other Condominium Documents (including the rules and regulations promulgated by the Board) now or hereafter promulgated shall in no event be deemed to be a waiver by the Board or of any other party having an interest therein of its rights to object to same and to seek compliance therewith in accordance with the provisions of the Condominium Documents.

15.3. Nuisance. A Residential Condominium Unit Owner shall not permit or suffer anything to be done or kept in his or her Residential Condominium Unit which will: (i) increase the insurance rates on his or her Residential Condominium Unit or the Common Elements; (ii) obstruct or interfere with the rights of other Residential Condominium Unit Owners or the Association; or (iii) annoy other Residential Condominium Unit Owners by unreasonable noises or otherwise. A Residential Condominium Unit Owner shall not commit or permit any nuisance or any immoral or illegal act in his or her Residential Condominium Unit or on the Common Elements.

15.4. Signs. A Residential Condominium Unit Owner (with the exception of Developer, for so long as Developer is a Residential Condominium Unit Owner) shall show no sign, advertisement or notice of any type on the Common Elements or in or upon his or her Residential Condominium Unit so as to be visible from the Common Elements, or any public way, except as may be previously and specifically approved in writing by Developer as long as Developer owns any Residential Condominium Unit(s) and the Board. Developer specifically reserves the right to place and maintain identifying or informational signs on the Building and any other improvements located on the Condominium Property, as well as any signs in connection with its sales activities. The initial signage, advertisement(s), and notice(s) placed by Developer while Developer holds Residential Condominium Unit(s) for sale or lease in the ordinary course of business shall in all cases be considered to be approved.

15.5. Pets or Animals. No Residential Condominium Unit Owner, their lessees, guests, invitees, family members or any person occupying a Residential Condominium Unit shall be permitted to keep any pet or animal within the Condominium or any portion thereof, including, but not limited to a Residential Condominium Unit, the Common Elements, the Limited Common Elements or the Shared Facilities; it being the intention and policy that no pet or animal shall be permitted within the Condominium. Each respective Residential Condominium Unit Owner and their respective lessees, guests, invitees, family members and all other persons occupying a Residential Condominium Unit other than the Residential Condominium Unit Owner hereby agree to indemnify and hold the Association and all other Residential Condominium Unit Owners harmless from and against any loss or liability of any kind or character whatsoever, arising from or growing out of having any pet or animal in the Condominium.

15.6. Clotheslines. No clothesline or other similar device shall be allowed in any portion of the Condominium Property, unless within a Residential Condominium Unit and concealed from view from all other portions of the Condominium Property and from the surrounding public areas.

15.7. Window Décor. All window treatments shall consist only of those window coverings included in the standard packages provided by Developer, if applicable. No temporary window treatments are permitted except when permanent window treatments are being cleaned or repaired. Reflective or foil window treatments are prohibited. Window tinting is not permitted.

15.8. Antenna, Aerial and Satellite Dish. No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or devices of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Condominium Property or upon any improvements thereon, unless expressly approved in writing by the Board, except that this prohibition shall not apply to those satellite dishes that are 18" in diameter or less, and specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time. The Board is empowered to adopt rules governing the types of antennae, and restrictions relating to safety, location and maintenance of antennae. The Board may adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to locations not visible from the street or neighboring properties, and integrated with the Building and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules. Antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land use and building regulations. The provisions of this section are intended to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances, which is sometimes caused by the operation of ham radios, CB base stations or other high-powered broadcasting equipment. No ham radios or radio transmission equipment shall be operated or permitted to be operated within the Condominium Property without the prior written consent of the Board.

15.9. Trash. In order to preserve the beauty of the Condominium, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept upon any part of the Condominium Property except in designated areas.

15.10. Projections. No Residential Condominium Unit Owner shall cause anything to project out of or over any window, door, Balcony, Roof Terrace or Private Sundeck except as may be approved in writing by the Association.

15.11. Condition of Residential Condominium Units. Each Residential Condominium Unit Owner shall keep his or her Residential Condominium Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom or from the doors, windows, Balconies, Private Sundecks or Roof Terraces thereof any dirt or other substances. No bathing suits, towels or clothing shall be hung from the Balconies, Private Sundecks or Roof Terraces.

15.12. Hurricane Season. The Association is responsible for monitoring each Residential Condominium Unit during the hurricane season, and making preparations at such times as are appropriate and do not unduly interfere with the operation of the Condominium as a transient resort Residential facility. Such preparations may include, but are not limited to, removing all furniture, potted plants and other movable objects, if any, from the Balcony, Roof Terrace, or Private Sundeck, if any, of any Residential Condominium Unit and designating a responsible firm or individual to care for the Residential Condominium Unit should the Residential Condominium Unit suffer hurricane damage. No hurricane shutters may be installed without the prior written consent of the Association. If the installation of hurricane shutters is made which does not conform with the specifications approved by the Association, then the hurricane shutters will be made to conform by the Association at the Residential Condominium Unit Owner's expense or they shall be removed.

15.13. Solicitation. No Residential Condominium Unit Owner may actively engage in any solicitation of other Residential Condominium Unit Owners or occupants for commercial purposes on the Condominium Property, nor shall any solicitor of a commercial nature be allowed on the Condominium Property without the prior written consent of the Association.

15.14. Leasing. A Residential Condominium Unit may be leased for a daily or longer term, at the Residential Condominium Unit Owner's option, provided only that the Association be notified as to each such occupancy. A Residential Condominium Unit Owner is free to lease the Residential Condominium Unit by his own efforts or through a rental program of his choosing.

15.15. Structural Modifications. A Residential Condominium Unit Owner may not make or cause to be made any structural modifications to his or her Residential Condominium Unit without Developer's prior written consent or, after the turnover of control of the Association to Residential Condominium Unit Owners other than Developer, the Board's prior written approval. Notwithstanding the foregoing, a Residential Condominium Unit Owner who owns two (2) adjacent Residential Condominium Units may connect such Residential Condominium Units provided it does not cause any structural or other harm to the structure or utilities or other service lines contained within the walls or if such utility service lines can be moved, they may be moved at the cost of the Residential Condominium Unit Owner desiring to connect adjacent Residential Condominium Units owned by such Residential Condominium Unit Owner. The Residential Condominium Unit Owner shall be responsible for paying for all engineering, architectural and other requirements of the

Association in making such modifications in order not to cause damage, including, but not limited to, structural and utility service to the other Residential Condominium Units and the Common Elements.

15.16. Mitigation of Dampness and Humidity. Each Residential Condominium Unit Owner shall maintain appropriate climate control, keep his or her Residential Condominium Unit clean, dry, well-ventilated and free of contamination and shall take necessary measures to retard and prevent mold, mildew, toxins and fungi from accumulating in the Residential Condominium Unit. Each Residential Condominium Unit Owner shall clean and dust the Residential Condominium Unit on a regular basis and remove visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts. Leaks, leaving exterior doors or windows open, wet flooring and moisture will contribute to the growth of mold, mildew, fungus or spores. Further, given the climate and humid conditions in Florida, molds, mildew, toxins and fungi may exist and/or develop within the Residential Condominium Unit and/or the Condominium Property. Each Residential Condominium Unit Owner is hereby advised that certain molds, mildew, toxins and/or fungi may be, or if allowed to remain for a sufficient period may become toxic and potentially pose a health risk. Each Residential Condominium Unit Owner, whether or not occupying the Residential Condominium Unit, shall continuously run the air conditioning to maintain the Residential Condominium Unit temperature at a maximum temperature of seventy-eight (78°) degrees, to minimize humidity in the Residential Condominium Unit. References in this section to climate control and air conditioning shall only be applicable to those portions of the Residential Condominium Unit that are air conditioned. Residential Condominium Unit Owners are required to report immediately in writing to the Board (i) any evidence of a water leak or water infiltration or excessive moisture in the Residential Condominium Unit common hallways, if any, and any other Common Elements; (ii) any evidence of mold that cannot be removed with a common household cleaner; (iii) any failure or malfunction in heating, ventilation or air conditioning, and (iv) any inoperable doors or windows, and each Residential Condominium Unit Owner shall be responsible for damage to the Residential Condominium Unit and personal property, as well as any injury to the Residential Condominium Unit Owner and/or occupants of the Residential Condominium Unit resulting from the Residential Condominium Unit Owner's failure to comply with these terms. Each Residential Condominium Unit Owner is fully responsible and liable for the entire amount of all cleaning expenses and remediation costs incurred by the Association to remove mold from the Residential Condominium Unit if the Residential Condominium Unit Owner fails to remediate same and each Residential Condominium Unit Owner shall be responsible for the repair and remediation of all damages to the Residential Condominium Unit caused by mold. By acquiring title to a Residential Condominium Unit, each Residential Condominium Unit Owner shall be deemed to have assumed the risks associated with molds, mildew, toxins and/or fungi and to have released the Developer from any and all liability resulting from same, including, without limitation, any liability for incidental or consequential damages, which may result from, without limitation, the inability to possess the Residential Condominium Unit, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities and/or personal injury and death to or suffered by the Residential Condominium Unit Owner, his/her family members and/or his/her guests, tenants, invitees and/or the pets of all of the aforementioned persons, as a result of mold, mildew, fungus or spores. Additionally, each Residential Condominium Unit Owner, by acceptance of a deed, or otherwise acquiring title to a Residential Condominium Unit, shall be deemed to have agreed that the

Developer shall not be responsible, and Developer hereby disclaims any responsibility for any illness, personal injury, death or allergic reactions which may be experienced by the Residential Condominium Unit Owner, his/her family members and/or his/her guests, tenants, invitees and/or the pets of all of the aforementioned persons, as result of mold, mildew, fungus or spores. The Developer does not make any representations or warranties regarding the existence or development of molds or mycotoxins and each Residential Condominium Unit Owner shall be deemed to waive and expressly release any such warranty and claim for loss or damages resulting from the existence and/or development of same. Further, in the event that the Association reasonably believes that these provisions are not being complied with, then, the Association shall have the right, but not the obligation, to enter the Residential Condominium Unit (without requiring the consent of the Residential Condominium Unit Owner or any other party) to turn on the air conditioning in an effort to cause the temperature of the Residential Condominium Unit to be maintained as hereby required (with all utility consumption costs to be paid and assumed by the Residential Condominium Unit Owner).

15.17. Board's Rule-Making Power. The Association, through its Board, may, from time to time, promulgate such other rules and regulations with respect to the Condominium as it determines to be in the best interests of the Condominium and the Residential Condominium Unit Owners. The Board may promulgate, modify, alter, amend or rescind such rules and regulations provided such promulgation, modifications, alterations and amendments: (i) are consistent with the use covenants set forth in the Condominium Documents and do not remove or unreasonably limit any use right provided by the other Condominium Documents; (ii) apply equally to all lawful residents without discriminating on the basis of whether a Residential Condominium Unit is occupied by a Residential Condominium Unit Owner or his or her lessee or other authorized user; and (iii) in Developer's opinion, for so long as Developer holds any Residential Condominium Units for sale in the ordinary course of business, would not be detrimental to the sales of Residential Condominium Units by Developer. No rule or regulation shall interfere with the operation of the Residential Condominium as a transient resort Residential facility.

15.18. Limitations. Notwithstanding any other rule, regulation, or restriction to the contrary herein contained, the Board shall make reasonable accommodations in the rules, regulations or restrictions, if such accommodations may be necessary, to afford a handicapped person equal opportunity to use and enjoy the Condominium Property.

## 16. PARKING

The Parking Garage which is part of the Garage Parcel and which is located in the Building is NOT part of the Condominium Property. However, Residential Condominium Unit Owners shall be permitted to park their vehicles (not to exceed one (1) vehicle) in the Parking Garage subject to all reasonable rules and regulations of, and such charges imposed by, the Owner of the Garage Parcel. Notwithstanding any language to the contrary contained in the immediately preceding sentence, the control, operation, licensing, granting and assigning of parking spaces in the Parking Garage by the Owner of the Garage Parcel shall at all times be subject to the following conditions, restrictions and limitations: (a) all parking within the Parking Garage shall be performed by valet parking only, and (b) Residential Condominium Unit Owners (but not such Residential Condominium Unit Owner's



guests, invitees or lessees) shall be guaranteed valet parking, either within the Parking Garage or at such other location as may be determined by the Owner of the Garage Parcel, free of charge or other imposition, for the lesser of (i) the amount of days the Residential Condominium Unit Owner is actually residing and occupying his/her Residential Condominium Unit, or (ii) sixty (60) days per calendar year. On all other days, Residential Condominium Unit Owners shall be free to park in the Parking Garage subject to rates charged by the Owner of the Garage Parcel to the general public.

## 17. MAINTENANCE AND REPAIR PROVISIONS

### 17.1. By Residential Condominium Unit Owners.

17.1.1. Maintenance and Repair. Each Residential Condominium Unit Owner shall maintain in good condition, and repair and replace at his or her expense, all portions of his or her Residential Condominium Unit, including the following equipment or fixtures if located within his or her Residential Condominium Unit: electrical fixtures, plumbing fixtures, appliances, or built-in cabinets, all interior surfaces within or surrounding his or her Residential Condominium Unit, and all exterior doors, casings and hardware therefor, and pay for utilities which are separately metered to his or her Residential Condominium Unit. Each Residential Condominium Unit Owner shall also maintain in good condition and repair, and replace at his or her expense, the personal property within his or her own Residential Condominium Unit. Every Residential Condominium Unit Owner must perform promptly all maintenance and repair work within his or her Residential Condominium Unit, as aforesaid, which if not performed would affect the Condominium Property or a Residential Condominium Unit belonging to another Residential Condominium Unit Owner. Each Residential Condominium Unit Owner shall be expressly responsible for the damages and liabilities that his or her failure to perform his or her above-mentioned responsibilities may engender. Said Residential Condominium Unit shall be maintained and repaired in accordance with the Building plans and specifications except for changes or alterations approved by the Board and Developer as provided in this Declaration.

17.1.1.1 Lifts. Certain Residential Condominium Units contain electric lifts to comply with the regulations of the ADA. Owners of units containing lifts shall be responsible for the maintenance of such lifts and cost.

17.1.2. Alterations. No Residential Condominium Unit Owner shall make any alterations in the Building or the Common Elements which are to be maintained by the Association or the Master Association or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety or soundness of the Building, the Common Elements, or the Limited Common Elements or which, in the sole opinion of the Master Association, the Board or Developer, would detrimentally affect the architectural design of the Building without first obtaining the written consent of the Master Association, the Board and Developer, if applicable, except as otherwise permitted by this Declaration.

17.1.3. Painting and Board Approval. No Residential Condominium Unit Owner shall paint, refurbish, stain, alter, decorate, repair, replace or change the Common Elements or any outside or exterior portion of the Building maintained by the Master Association or the Association, including Balconies, doors or window frames, etc. No Residential Condominium Unit Owner shall

have any exterior lighting fixtures, mail boxes, window screens, screen doors, awnings, hurricane shutters, hardware, floor tile or similar items installed which are not consistent with the general architecture of the Building maintained by the Master Association or the Association without first obtaining specific written approval of the Master Association or the Board and Developer. The Board shall not grant approval if, in its opinion, the effect of any of the items mentioned herein will be unsightly as to the portion of the Building maintained by the Master Association or the Association and unless such items substantially conform to the architectural design of the Building and the design of any such items which have previously been installed at the time the Board approval is requested.

17.1.4. Duty to Report. Each Residential Condominium Unit Owner shall promptly report to the Association or its agents any defect or need for repairs on the Condominium Property, the responsibility for the remedying of which is that of the Association.

17.1.5. Use of Licensed Plumbers and Electricians. No Residential Condominium Unit Owner shall have repairs made to any plumbing or electrical wiring within a Residential Condominium Unit except by licensed plumbers or electricians authorized to do such work by the Board. The provisions as to the use of a licensed plumber or electrician shall not be applicable to Developer. Plumbing and electrical repairs within a Residential Condominium Unit shall be paid for by and shall be the financial obligation of the Residential Condominium Unit Owner, unless such repairs are made in a Residential Condominium Unit to plumbing and electrical systems serving more than one (1) Residential Condominium Unit, in which event such repairs are the responsibility of the Association and the cost thereof is a Common Expense.

17.1.6. Access by Association. The Master Association and the Association has the irrevocable right of access to each Residential Condominium Unit during reasonable hours (and at any time in the event of an emergency) when necessary for the maintenance, repair or replacement of any Common Elements or of any portion of a Residential Condominium Unit to be maintained by the Master Association or the Association pursuant to the Master Declaration or this Declaration or as necessary to prevent damage to the Building, the Common Elements or to another Residential Condominium Unit.

17.1.7. Liability for Actions. A Residential Condominium Unit Owner shall be liable for the expense of any maintenance, repair or replacement of any real or personal property rendered necessary by his or her act, negligence or carelessness, or by that of his or her lessee or any member of their families, or their guests, employees or agents (normal wear and tear excepted), but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include the cost of repairing broken windows. A Residential Condominium Unit Owner shall also be liable for any personal injuries caused by his or her negligent acts or those of his or her lessee or any member of their families, or their guests, employees or agents. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

17.2. By the Association.

17.2.1. Improvements. The responsibility of the Association is to repair, maintain and replace any and all improvements and facilities located upon the Common Elements, including the Limited Common Elements, as well as easement areas for other uses, if applicable. Maintenance includes, but is not limited to, the following: cleanup, painting, structural upkeep, and maintenance of other Common Elements. The Association shall maintain and repair all interior walls of the Condominium Property, including the interior walls contained within Residential Condominium Units; provided, however, this obligation shall not include the finished surfaces of walls inside the Residential Condominium Units or the finished floors of the Residential Condominium Units, which shall be the maintenance responsibility of the respective Residential Condominium Unit Owners.

17.2.2. Compliance With Regulations of Public Bodies. The Association shall perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the same in order to comply with sanitary requirements, fire hazard requirements, zoning requirements, setback requirements, drainage requirements and other similar requirements designed to protect the public. The cost of the foregoing shall be a Common Expense.

17.2.3. Quality of Care. In any part of the Condominium Property for which the Association has the designated responsibilities of repair, maintenance and/or replacement, it shall exercise care such that its responsibilities are executed in a first class manner consistent with the operation of a quality resort Residential. Such care shall comply with all applicable laws and regulations. Such care shall comply with all applicable laws and regulations, including those for rental programs, as well as, without limitation, all requirements for compliance with licensing as a transient lodging facility, and other applicable licensing.

17.3. Developer's Warranties. Notwithstanding anything contained in this Article 17 to the contrary, each Residential Condominium Unit Owner acknowledges and agrees that Developer shall be irreparably harmed if a Residential Condominium Unit Owner undertakes the repair or replacement of any defective portion of a Residential Condominium Unit, the Building, the Common Elements or any other real or personal property constituting the Condominium Property during the time in which Developer is liable under any warranties in connection with the sale of any Residential Condominium Unit. Accordingly, each Residential Condominium Unit Owner hereby agrees (i) to promptly, upon such Residential Condominium Unit Owner's knowledge of the existence of any such defective portion, provide written notice to Developer specifying each such defective portion, upon the receipt of which Developer shall have thirty (30) days ("Repair Period") to commence the repair or replacement of such defective portion and diligently pursue the completion thereof; and (ii) not to repair, replace or otherwise adjust any such defective portion during the Repair Period; provided, however, that if Developer fails to commence the repair or replacement of such defective portion within the Repair Period, such Residential Condominium Unit Owner may repair or replace same. If any Residential Condominium Unit Owner fails to comply with the provisions of this Paragraph 17.3, such Residential Condominium Unit Owner will be deemed to have breached his or her obligation to mitigate damages and such Residential Condominium Unit Owner's conduct shall constitute an aggravation of damages. It is the intention of this Paragraph 17.3 to grant certain rights to Developer which are in addition to those rights provided to Developer in Chapter 558, Florida

Statutes ("Chapter 558 Notice of Claim"), as it exists at the time of recording this Declaration. If a court of law should determine that any of the terms of this Paragraph 17.3 conflict with any of the terms of Chapter 558 Notice of Claim, the terms of Chapter 558 Notice of Claim shall supersede and control to the extent of such conflict.

17.4. Alterations and Improvements. The Association shall have the right to make or cause to be made changes and improvements of the Common Elements which are approved by the Board and which do not prejudice the rights of any Residential Condominium Unit Owner or any Institutional Mortgagee. In the event such changes or improvements prejudice the rights of a Residential Condominium Unit Owner or Institutional Mortgagee, the consent of such Residential Condominium Unit Owner or Institutional Mortgagee so prejudiced shall be required before such changes or improvements may be made or caused. In any event, approval of the Board shall be submitted for ratification by the affirmative vote of the Residential Condominium Unit Owners of two-thirds (2/3) of the Residential Condominium Units if the cost of the same shall be a Common Expense which is the subject of a Special Assessment which shall exceed Three Thousand Dollars (\$3,000.00) to any Residential Condominium Unit in any twelve (12) month period when combining all Special Assessments for changes and improvements during such time period. The cost of such alterations and improvements shall be assessed among the Residential Condominium Unit Owners in proportion to their share of Common Expenses.

17.5. Conformity with Master Declaration. Notwithstanding anything contained in this Article 17 to the contrary, alterations, improvements, repairs and maintenance of the Condominium Property shall conform to the provisions of the Master Declaration and all other valid terms and provisions thereof.

17.6. Conflict with Master Declaration. Notwithstanding any inconsistencies which may exist between the provisions of the Master Declaration and the provisions of this Declaration regarding the maintenance responsibilities of the Owners and the Association, the maintenance responsibilities of the Owners and the Association shall be as set forth in the Master Declaration which is the controlling and superior document.

#### 18. ASSESSMENTS FOR COMMON EXPENSES; ESTABLISHMENT AND ENFORCEMENT OF LIENS

18.1. Affirmative Covenant to Pay Common Expenses. In order to: (i) fulfill the covenants contained in this Declaration; (ii) provide for maintenance and preservation of the Common Elements for the recreation, safety, welfare, and benefit of Residential Condominium Unit Owners, their invitees, guests, family members and lessees, subject to the terms of this Declaration; and (iii) provide for maintenance and preservation of the services and amenities provided for herein, there is hereby imposed upon the Residential Condominium Units and the Residential Condominium Unit Owners thereof the affirmative covenant and obligation to pay the Assessments including, but not limited to, the Annual Assessments. Each Residential Condominium Unit Owner, by acceptance of a deed or other instrument of conveyance for a Residential Condominium Unit, whether or not it shall be so expressed in any such deed or instrument, shall be so obligated and agrees to pay to the Association all Assessments determined in accordance with the provisions of this Declaration and all

of the covenants set forth herein shall run with the Condominium Property and each Residential Condominium Unit therein.

18.2. Lien. The Annual Assessment and Special Assessments, as determined in accordance with Article 19 hereof, together with Interest thereon and costs of collection thereof, including Legal Fees, are, pursuant to the Act, subject to a lien right on behalf of the Association to secure payment thereof and such Assessments are hereby declared to be a charge on each Residential Condominium Unit and shall be a continuing lien upon the Residential Condominium Unit against which each such Assessment is made. Each Assessment against a Residential Condominium Unit, together with Interest thereon and costs of collection thereof, including Legal Fees, shall be the personal obligation of the person, persons, entity and/or entities owning the Residential Condominium Unit so assessed. The Association's statutory lien for Assessments shall be effective only from and after the time of recordation amongst the Public Records of the County of a written acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by such lien or liens, the party making payment shall be entitled to a recordable satisfaction of the statement of lien.

18.2.1. Personal Obligation. Each Assessment against a Residential Condominium Unit, together with Interest thereon and costs of collection thereof, including Legal Fees, shall be the personal obligation of the person, persons, entity and/or entities owning the Residential Condominium Unit so assessed.

18.2.2. Institutional Mortgagees. To the extent permitted by law, an Institutional Mortgagee or other person who obtains title to a Residential Condominium Unit by foreclosure of a first mortgage, or Institutional Mortgagee who obtains title to a Residential Condominium Unit by deed in lieu of foreclosure, shall not be liable for the unpaid Assessments that became due prior to such acquisition of title, unless the payment of Assessments was secured by a claim of lien recorded by the Association prior to the recording of the first mortgage. It is acknowledged that as of the date of recording this Declaration, the Act provides that a first mortgagee who acquires title to a Residential Condominium Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid Assessment that became due prior to the mortgagee's receipt of the deed, however, the mortgagee's liability is limited to a period not exceeding six (6) months, or one percent (1%) of the original mortgage debt, whichever amount is less. In the event the Act is amended to reduce the liability of a first mortgagee or other person who acquires title to a Residential Condominium Unit by foreclosure or deed in lieu of foreclosure, the first mortgagee or person acquiring title shall receive the benefit of such reduced liability. Assessments which are not due from such Institutional Mortgagee shall become a Common Expense or Shared Expense (as the case may be) collectible from all Residential Condominium Unit Owners pursuant to Paragraph 20.9 hereof.

18.3. Enforcement. In the event that any Residential Condominium Unit Owner shall fail to pay any Annual Assessment, or installment thereof, or any Special Assessment, or installment thereof, charged to his or her Residential Condominium Unit within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have the following remedies:

(i) To advance, on behalf of the Residential Condominium Unit Owner in default, funds to accomplish the needs of the Association, provided that: (a) the amount or amounts of monies so advanced, including Legal Fees and expenses which have been reasonably incurred because of or in connection with such payments, together with Interest thereon, may thereupon be collected by the Association; and (b) such advance by the Association shall not waive the default of the Residential Condominium Unit Owner in failing to make its payments;

(ii) To accelerate the entire amount of any Assessments for the remainder of the calendar year in accordance with the provisions of the Act and rules set forth in the Florida Administrative Code promulgated by the Division of Florida Land Sales, Condominiums and Mobile Homes;

(iii) To file an action in equity to foreclose its lien at any time after the effective date thereof or an action in the name of the Association under any equitable rights or remedies which may be available to the Association, including, but not limited to, the equitable rights sometimes available in a foreclosure of a mortgage on real property; and

(iv) To file an action at law to collect the amount owing plus Interest and Legal Fees without waiving its lien rights and its right of foreclosure.

#### 19. METHOD OF DETERMINING, ASSESSING AND COLLECTING ASSESSMENTS

The Assessments as hereinafter set forth and described shall be assessed to and collected from Residential Condominium Unit Owners on the following basis:

##### 19.1. Determining Annual Assessment.

19.1.1. Expenses. The total anticipated Common Expenses for each calendar year shall be set forth in a schedule to the Budget of the Association which shall be prepared by the Board as described in the Articles and Bylaws. The total anticipated Common Expenses shall be that sum necessary for the maintenance and operation of the Condominium and such expenses shall be allocated to the Residential Condominium Units based upon each Residential Condominium Unit's share of the Common Expenses, which allocated sum shall be assessed as the Annual Assessment. The Annual Assessment may be adjusted quarterly in the instance where the Board determines that the estimated Common Expenses are insufficient to meet the actual Common Expenses being incurred, in which event the anticipated Common Expenses for the remaining quarters may be increased accordingly in calculating the Annual Assessment.

19.1.2. Assessment Payment. The Annual Assessment shall be payable quarterly in advance on the first day of each quarter of the calendar year or at such other time as may be determined by the Board from time to time but in no event less than quarterly.

19.2. Developer's Guarantee. From the recording of this Declaration until December 31<sup>st</sup> of the calendar year in which this Declaration is recorded, Developer guarantees that, pursuant to Section 718.116(9)(a)2, Assessments for Common Expenses and Limited Common Expenses of the Association will not exceed the amounts shown below. Accordingly, Developer agrees with each purchaser of a Residential Condominium Unit that the Assessments for Common Expenses and Limited Common Expenses of the Association will not exceed certain amounts, as follows: From the recording of this Declaration until December 31<sup>st</sup> of the calendar year in which this Declaration is recorded, Developer guarantees, pursuant to Section 718.116(9)(a)(2) of the Act, that Assessments for Common Expenses and Limited Common Expenses of the Association will not exceed (i) Six Hundred Thirty-Four and 13/100 (\$634.13) Dollars per month (One Thousand Nine Hundred Two and 39/100 (\$1,902.39) Dollars per quarter) per Residential Condominium Unit that contains a Private Sundeck either with or without a Planter, (ii) Six Hundred Thirty-Four and 13/100 (\$634.13) Dollars per month (One Thousand Nine Hundred Two and 39/100 (\$1,902.39) Dollars per quarter) per Residential Condominium Unit that contains a Balcony either with or without a Planter, (iii) Six Hundred Ninety-Two and 46/100 (\$692.46) Dollars per month (Two Thousand Seventy-Seven and 38/100 (\$2,077.38) Dollars per quarter) per Residential Condominium Unit that contains a Balcony (either with or without a Planter) and Private Spa, and (iv) Seven Hundred Fifty and 80/100 (\$750.80) Dollars per month (Two Thousand Two Hundred Fifty-Two and 40/100 (\$2,252.40) Dollars per quarter) per Residential Condominium Unit that contains a Balcony (either with or without a Planter), Roof Terrace, Private Spa, Awning and Private Staircase. Developer will pay all Common Expenses and Limited Common Expenses not paid for by Assessments of Residential Condominium Units not owned by Developer ("Guarantee for Common Expenses"), except for those Special Assessments permitted by said Section of the Act to be paid by all Residential Condominium Unit Owners, including the Developer, while Developer's Guarantee for Common Expenses is still in effect. Developer's guarantee is made in accordance with the provisions of Section 718.116(9)(a)(2) of the Act. The expiration of the guarantee period is December 31<sup>st</sup> of the calendar year in which this Declaration is recorded, provided, however, that the Guarantee for Common Expenses and Limited Common Expenses shall terminate on the date when control of the Association is turned over to Residential Condominium Unit Owners other than the Developer in the event the date when control of the Association is turned over to Residential Condominium Unit Owners other than the Developer occurs prior to December 31 of the calendar year in which this Declaration is recorded.

Developer reserves the right to extend the guarantee period for two (2) additional six (6) month periods by providing the Association with notice prior to the then current date set forth as the end of the guarantee period of Developer's intention to extend the guarantee period and such notice shall specify the new termination date of the guarantee period. The guarantee period or any extension thereof shall terminate on the date when control of the Association is turned over to Residential Condominium Units other than Developer.

Assessments determined as provided in Paragraph 19.1 of this Declaration or the Bylaws shall be determined and made commencing January 1, 2007, if Developer does not choose the option to extend the guarantee period, or January 1, 2008, if Developer chooses the option to extend the guarantee period, or the date when control of the Association is turned over to Residential Condominium Unit Owners other than the Developer, whichever is the sooner to occur, and

Developer will pay all Assessments for any of the Residential Condominium Units owned by Developer from and after such date.

19.3. Special Assessments. In addition to the Annual Assessment, Residential Condominium Unit Owners shall be obligated to pay such Special Assessments as shall be levied by the Board in accordance with the Bylaws against their Residential Condominium Units either as a result of: (i) extraordinary items of expense; (ii) the failure or refusal of other Residential Condominium Unit Owners to pay their Annual Assessment; or (iii) such other reason or basis determined by the Board which is not inconsistent with the terms of the Condominium Documents or the Act.

## 20. COMMON EXPENSES

The following expenses are declared to be Common Expenses of the Condominium which each Residential Condominium Unit Owner is obligated to pay to the Association as provided in this Declaration and the Condominium Documents:

20.1. Taxes. Any and all taxes or general or special assessments levied against the Condominium Property as a whole, and not the individual Residential Condominium Units, including any interest, penalties and other charges which may accrue thereon shall, as appropriate, be considered Common Expenses.

20.2. Utility Charges. All charges levied for utilities providing services for the Common Elements of the Condominium Property, whether they are supplied by a private or public firm shall, as appropriate, be considered Common Expenses. It is contemplated that this obligation will include charges for water, electricity, telephone (this does not include long distance or special charges or individual telephone lines obtained by any Residential Condominium Unit Owner), sewer and any other type of utility or any other type of service charge incurred in connection with the Common Elements of the Condominium Property. The charges for all water and sewer services to the Residential Condominium Units shall also be Common Expenses. If the Association enters into a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract, the cost thereof shall be a Common Expense, provided, however, pursuant to Section 718.115(1)(b) of the Act, the cost thereof shall be equal to each Residential Condominium Unit Owner and not levied and collected according to the Residential Condominium Unit Owners' shares in the Common Elements.

20.3. Insurance. The premiums on any policy or policies of insurance required to be maintained under this Declaration and the premiums on any policy or policies the Association determines to maintain on the Condominium Property or specifically related to the Condominium, even if not required to be maintained by the specific terms of this Declaration, shall be Common Expenses, commencing with the recordation of this Declaration.



20.4. Destruction of Building or Improvements. Any sums necessary to repair or replace, construct or reconstruct damages caused by the destruction of the Condominium Property or any other structure upon the Common Elements, or any property owned or to be owned by the Association as contemplated by this Declaration, by fire, windstorm, flood or other casualty regardless of whether or not the same is covered in whole or in part by insurance, including all amounts required to be deducted from any proceeds received by the Association from an insurer pursuant to a deductible clause in the applicable insurance agreement, shall be Common Expenses. In the event insurance money shall be payable, such insurance money shall be paid to the Insurance Trustee, which shall open an account with a banking institution doing business in the County, for the purpose of providing a fund for the repair and reconstruction of the damage. The Association shall pay into such account, either in addition to the insurance proceeds, or in the event there are no insurance proceeds, such sums as may be necessary so that the funds on deposit will equal the costs of repair and reconstruction of the damage or destruction. The sums necessary to pay for the damage or destruction as herein contemplated shall be considered Common Expenses, but shall be raised by the Association under the provisions for Special Assessments as provided in Paragraph 19.3 of this Declaration. The Association agrees that it will levy Special Assessments to provide the funds for the cost of reconstruction or construction within ninety (90) days from the date the destruction takes place and shall go forward with all deliberate speed so that the construction or reconstruction, repair or replacement, shall be completed, if possible, within nine (9) months from the date of damage.

20.5. Maintenance, Repair and Replacements. Common Expenses shall include all expenses necessary to keep and maintain, repair and replace the Condominium Property, and any and all improvements, personal property and furniture, fixtures and equipment of the Association upon the Common Elements, or any property owned or to be owned by the Association, including but not limited to any interest in any Residential Condominium Unit conveyed, leased or otherwise transferred to the Association as contemplated by this Declaration, in a manner consistent with the development of the Condominium and in accordance with the covenants and restrictions contained herein and in conformity with the Master Declaration, and with all orders, ordinances, rulings and regulations of any and all federal, state and city governments having jurisdiction thereover, including the statutes and laws of the State of Florida and the United States. This shall include any expenses attributable to the maintenance and repair and replacement of any property owned by the Association pursuant to agreements between the Association and utility corporations. Any expenses for replacements which would not be in the nature of normal repair and maintenance may be the subject of a Special Assessment as provided in Paragraph 18.3 of this Declaration.

20.6. Administrative and Operational Expenses. The costs of administration of the Association including, but not limited to, any secretaries, bookkeepers, security, concierge, and other employees necessary to carry out the obligations and covenants of the Association as to the Condominium shall be deemed to be Common Expenses. In addition, it is contemplated that the Association may retain a management company or companies or contractors (any of which management companies or contractors may be, but are not required to be, a subsidiary, affiliate or an otherwise-related entity of Developer) to assist in the operation of the Condominium Property and obligations of the Association hereunder. The fees or costs of this or any other management company or contractors so retained shall be deemed to be part of the Common Expenses hereunder, as will fees which may be required to be paid to the Division of Florida Land Sales, Condominiums

and Mobile Homes from time to time.

20.7. Indemnification. The Association covenants and agrees that it will indemnify and hold harmless Developer and the members of the Board from and against any and all claims, suits, actions, damages, and/or causes of action arising from any personal injury, loss of life, and/or damage to property sustained in or about the Condominium Property or the appurtenances thereto from and against all costs, Legal Fees, expenses and liabilities incurred in and about any such claim, the investigation thereof, or the defense of any action or proceeding brought thereon, and from and against any orders, judgments and/or decrees which may be entered therein. Included in the foregoing provisions of indemnification are any expenses that Developer may be compelled to incur in bringing suit for the purpose of compelling the specific enforcement of the provisions, conditions and covenants contained in this Declaration to be kept and performed by the Association.

20.8. Compliance with Laws. The Association shall take such action as it determines necessary or appropriate in order for the Common Elements, and any property owned or to be owned by the Association as contemplated by this Declaration, to be in compliance with all applicable laws, statutes, ordinances and regulations of any governmental authority, whether federal, state or local, including, without limitation, any regulations regarding zoning requirements, sanitary conditions and fire hazards, and the cost and expense of such action taken by the Association shall be a Common Expense.

20.9. Failure or Refusal of Residential Condominium Unit Owners to Pay Annual Assessments. Funds needed for Common Expenses due to the failure or refusal of Residential Condominium Unit Owners to pay their Annual Assessments shall, themselves, be deemed to be Common Expenses and properly the subject of an Assessment.

20.10. Extraordinary Items. Extraordinary items of expense under this Declaration such as expenses due to casualty losses and other extraordinary circumstances shall be the subject of a Special Assessment.

20.11. Matters of Special Assessments Generally. Amounts needed to supplement an already adopted budget of the Association for capital improvements, as hereinbefore set forth, or for other purposes or reasons as determined by the Board to be the subject of a Special Assessment and which are not inconsistent with the terms of any of the Condominium Documents or the Master Declaration, must also be approved by a majority vote of the Residential Condominium Unit Owners at any meeting of members of the Association having a quorum, except that (i) no such approval need be obtained for a Special Assessment for the replacement or repair of a previously existing improvement on the Condominium Property, and/or any property owned by the Association, as contemplated by this Declaration, which was destroyed or damaged, it being recognized that the sums needed for such capital expenditure shall be the subject of a Special Assessment; and (ii) no such approval need be obtained for a Special Assessment which is approved by the Board, and for which the cost does not exceed Two Hundred Thousand (\$200,000.00) Dollars.

20.12. Costs of Reserves. The funds necessary to establish an adequate reserve fund ("Reserves") for periodic maintenance, repair and replacement of the Common Elements, and any property owned by the Association, as contemplated by this Declaration, and the facilities and improvements thereupon, in amounts determined sufficient and appropriate by the Board from time to time shall be a Common Expense. Reserves shall be levied, assessed and/or waived in accordance with the Act. The Reserves shall be deposited in a separate account to provide such funds and reserves. The monies collected by the Association on account of Reserves shall be and shall remain the exclusive property of the Association and no Residential Condominium Unit Owner shall have any interest, claim or right to such Reserves or any fund composed of same.

Developer, as the sole member of the Association, has exercised or will exercise the right pursuant to Section 718.112(2)(f)2 of the Act to waive statutory Reserves for the first fiscal year of the Association's operation. Developer intends to cast its votes to waive reserves for the second fiscal year of the Association's operations.

20.13. Miscellaneous Expenses. Common Expenses shall include the cost of all items of expense pertaining to or for the benefit of the Association or the Common Elements and any property owned or to be owned by the Association as contemplated by this Declaration, or any part thereof, not herein specifically enumerated and which is determined to be an appropriate item of Common Expense by the Board.

20.14. Property to Be Maintained by the Association. Notwithstanding the current ownership of any real or personal property by Developer, in the event it is declared that such property is to be maintained by the Association, then the costs associated with such maintenance shall be a Common Expense commencing with the recordation of this Declaration.

20.15 Shared Expenses. Common Expenses shall include Shared Expenses allocated to the Condominium defined as the Residential Parcel and pursuant to the Master Declaration.

## 21. PROVISIONS RELATING TO PROHIBITION OF FURTHER SUBDIVISION

21.1. Subdivision. Except regarding such rights as may be granted by Developer in Article 25 hereinbelow, the space within any of the Residential Condominium Units and the Common Elements shall not be further subdivided. Any instrument, whether a conveyance, mortgage or otherwise, which describes only a portion of the space within any Residential Condominium Unit shall be deemed to describe the entire Residential Condominium Unit owned by the person executing such instrument and the interest in the Common Elements appurtenant thereto.

21.2. Incorporation of Section 718.107. The provisions of Section 718.107 of the Act with regard to restraint upon separation and partition of Common Elements are specifically incorporated into this Declaration.

## 22. PROVISIONS RELATING TO SEVERABILITY

If any provision of this Declaration, any of the other Condominium Documents or the Act is held invalid, the validity of the remainder of this Declaration, the Condominium Documents or the Act shall not be affected.

## 23. PROVISIONS RELATING TO INTERPRETATION

23.1. Titles. Article, Paragraph and subparagraph titles in this Declaration are intended only for convenience and for ease of reference, and in no way do such titles define, limit or in any way affect this Declaration or the meaning or contents of any material contained herein.

23.2. Gender. Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

23.3. Member. As used herein, the term "member" means and refers to any person, natural or corporate, who becomes a member of the Association, whether or not that person actually participates in the Association as a member.

23.4. Conflict. In the event there is any conflict between this Declaration and any exhibit attached hereto, and any amendment to any such exhibit, the Declaration, as it may be amended from time to time, shall control.

23.5. Rule Against Perpetuities. In the event any court should hereafter determine any provisions as originally drafted herein in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law and, for such purpose, "measuring lives" shall be that of the last surviving member of the first Board of the Association.

## 24. PROVISIONS CONTAINING REMEDIES FOR VIOLATION

Each Residential Condominium Unit Owner shall be governed by and shall comply with the Act and all of the Condominium Documents as such Condominium Documents may be amended and supplemented from time to time. Failure to do so shall entitle the Association, any Residential Condominium Unit Owner or any Institutional Mortgagee holding a mortgage on any portion of the Condominium Property to sue for injunctive relief, for damages or for both, and such parties shall have all other rights and remedies which may be available at law or in equity. The failure to enforce promptly any of the provisions of the Condominium Documents shall not bar their subsequent enforcement. In any proceeding arising because of an alleged failure of a Residential Condominium Unit Owner to comply with the terms of the Condominium Documents, the prevailing party shall be entitled to recover the costs of the proceeding and Legal Fees. The failure of the Board to object to Residential Condominium Unit Owners' or other parties' failure to comply with covenants or restrictions contained herein or in any of the other Condominium Documents (including the rules and

regulations promulgated by the Board) now or hereafter promulgated shall in no event be deemed to be a waiver by the Board or of any other party having an interest therein of its rights to object to same and to seek compliance therewith in accordance with the provisions of the Condominium Documents.

## 25. PROVISIONS FOR ALTERATIONS OF RESIDENTIAL CONDOMINIUM UNITS BY DEVELOPER

25.1. Developer's Reserved Right. Developer reserves the right to nonmaterially alter, change or modify the interior design and arrangement of all Residential Condominium Units and to alter the boundaries between the Residential Condominium Units as long as Developer owns the Residential Condominium Units so altered (which alterations in Developer's Residential Condominium Units are hereinafter referred to as the "Developer Alterations").

25.2. Developer Alterations Amendment. Any Developer Alterations which will alter the boundaries of existing Common Elements of the Condominium other than interior walls abutting Residential Condominium Units owned by Developer and the Common Elements will first require an amendment to this Declaration in the manner provided in Article 26 hereof.

In the event the Developer Alterations do not require an amendment in accordance with the above provisions, then as long as Developer owns the Residential Condominium Units being affected, an amendment of this Declaration shall be filed by Developer ("Developer's Amendment") in accordance with the provisions of this Paragraph 25.2. Such Developer's Amendment need be signed and acknowledged only by Developer and need not be approved by the Association, Residential Condominium Unit Owners or lienors or mortgagees of the Residential Condominium Units, whether or not such approvals are elsewhere required for an amendment of this Declaration.

## 26. PROVISIONS FOR AMENDMENTS TO DECLARATION

26.1. General Procedure. Except as to the Amendment described in Paragraph 25.2 hereof, and the matters described in Paragraphs 26.2, 26.3, 26.4, 26.5 and 26.6 below and except where a greater percentage vote is required by this Declaration for a certain action (in which case such greater or lesser percentage shall also be required to effectuate an amendment), this Declaration may be amended at any regular or special meeting of the Residential Condominium Unit Owners called and held in accordance with the Bylaws, by the affirmative vote of not less than eighty percent (80%) of all Residential Condominium Unit Owners provided that any amendment shall be approved or ratified by a majority of the Board as a whole. An amendment to the Declaration shall be evidenced by a certificate executed by the Association and recorded in accordance with the Act. A true copy of such amendment shall be sent by certified mail by the Association to Developer, for so long as Developer holds any Residential Condominium Units for sale in the ordinary course of business, and to all Institutional Mortgagees ("Mailing"). The amendment shall become effective upon the recording of the certificate amongst the Public Records, but the certificate shall not be recorded until thirty (30) days after the Mailing, unless such thirty (30) day period is waived in writing by Developer and all Institutional Mortgagees. No amendment shall be valid if it is in conflict with the

Master Declaration.

26.2. Material Alteration. Except as otherwise provided in this Declaration, no amendment of the Declaration shall change the configuration or size of any Residential Condominium Unit in any material fashion, materially alter or modify the appurtenances to such Residential Condominium Unit, change the proportion or percentage by which the Residential Condominium Unit Owner shares the Common Expenses and owns the Common Surplus and Common Elements or the Residential Condominium Unit's voting rights in the Association, unless: (i) the record owner of the Residential Condominium Unit and all record holders of liens on the Residential Condominium Unit join in the execution of the amendment; and (ii) all the record Residential Condominium Unit Owners of all other Residential Condominium Units approve the amendment. Any such amendments shall be evidenced by a certificate joined in and executed by all the Residential Condominium Unit Owners and all Institutional Mortgagees holding mortgages thereon and shall be recorded in the same manner as provided in Paragraph 26.1; provided, however, no amendment to this Declaration shall change the method of determining Annual Assessments unless approved in writing by the Institutional Mortgagees holding mortgages encumbering two-thirds (2/3) of the Residential Condominium Units encumbered by mortgages held by Institutional Mortgagees.

26.3. Defect, Error or Omission. Whenever it shall appear to the Board that there is a defect, error or omission in this Declaration, or in other documentation required by law to establish the Condominium, the Association, through its Board, shall immediately call for a special meeting of the Residential Condominium Unit Owners to consider amending this Declaration or other Condominium Documents. Upon the affirmative vote of one-third (1/3) of the Residential Condominium Unit Owners, with there being more positive votes than negative votes, the Association shall amend the appropriate documents. A true copy of such amendment shall be sent pursuant to the Mailing. The amendment shall become effective upon the recording of the certificate amongst the Public Records, but the certificate shall not be recorded until thirty (30) days after the Mailing, unless such thirty (30)-day period is waived in writing by Developer, for so long as Developer holds any Residential Condominium Units for sale in the ordinary course of business, and all Institutional Mortgagees.

26.4. Rights of Developer, the Association, and Institutional Mortgagees. No amendment shall be passed which shall materially impair or prejudice the rights or priorities of Developer, the Association, or any Institutional Mortgagee under this Declaration and the other Condominium Documents without the specific written approval of Developer, the Association, or any Institutional Mortgagees affected thereby. The consent of such Institutional Mortgagee may not be unreasonably withheld.

26.5. Scrivener's Error. The Association may amend this Declaration and any exhibits hereto, in order to correct a scrivener's error or other defect or omission by the affirmative vote of two-thirds (2/3) of the Board without the consent of the Residential Condominium Unit Owners provided that such amendment does not materially and adversely affect the rights of Residential Condominium Unit Owners, lienors or mortgagees. This amendment shall be signed by the President of the Association and a copy of the amendment shall be furnished to the Association and all Listed Mortgagees and sent pursuant to the Mailing as soon after recording thereof amongst the

Public Records as is practicable.

26.6. Amendments Required by Secondary Mortgage Market Institutions. Notwithstanding anything contained herein to the contrary, Developer may, without the consent of the Residential Condominium Unit Owners, file any amendment which may be required by an Institutional Mortgagee for the purpose of satisfying its lending criteria or such criteria as may be established by such mortgagee's secondary mortgage market purchasers, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; provided, however, that any such Developer filed amendments must be in accordance with any applicable rules, regulations and other requirements promulgated by the United States Department of Housing and Urban Development.

26.7. Condominium Documents. The Articles, Bylaws, Master Declaration and other Condominium Documents shall be amended as provided in such documents, so long as no amendment to any Condominium Document conflicts with this Declaration. In the event of a conflict between the provisions of this Declaration and the provisions of the Master Declaration, the provisions of the Master Declaration shall control.

26.8. Form of Amendment. To the extent required by the Act, no provision of this Declaration shall be revised or amended by reference to its title or number only and proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text and underlined; and words to be deleted shall be lined through with hyphens; provided, however, if the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicated for words added or deleted, but, instead a notation shall be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial Rewording of Declaration. See provision \_\_\_\_ for present text." Notwithstanding anything herein contained to the contrary, however, failure to comply with the above format shall not be deemed a material error or omission in the amendment process and shall not invalidate an otherwise properly promulgated amendment.

## 27. PROVISIONS SETTING FORTH THE RIGHTS OF DEVELOPER

27.1. Developer's Right to Transact Business. Developer reserves and shall have the right to enter into and transact on the Condominium Property any business necessary to consummate the sale, lease or encumbrance of Residential Condominium Units including the right to maintain models and a sales and/or leasing office, place signs, employ sales personnel, hold promotional parties, use the Common Elements, and show Residential Condominium Units, and including the right to carry on construction activities of all types necessary to construct all improvements in the Condominium. Any such models, sales and/or leasing office, signs and any other items pertaining to such sales and/or leasing efforts shall not be considered a part of the Common Elements and shall remain the property of Developer.

27.2. Assignment. This Article 27 may not be suspended, superseded or modified in any manner by any amendment to this Declaration, unless such amendment is consented to in writing by Developer. This right of use and transaction of business as set forth in this Article 27 may be assigned in writing by Developer in whole or in part.

## 28. GENERAL PROVISIONS

28.1. Severability. Invalidity of any one of these covenants or restrictions or of any of the terms and conditions herein contained shall in no way affect any other provisions which shall remain in full force and effect.

### 28.2. Rights of Mortgagees.

28.2.1. Right to Notice. The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Condominium Documents and the books, records and financial statements of the Association to Residential Condominium Unit Owners, prospective purchasers and the holders, insurers or guarantors of any first mortgages encumbering Residential Condominium Units. In addition, evidence of insurance shall be issued to each Residential Condominium Unit Owner and mortgagee holding a mortgage encumbering a Residential Condominium Unit upon written request to the Association.

28.2.2. Rights of Listed Mortgagee. Upon written request to the Association, identifying the name and address of the Listed Mortgagee of a mortgage encumbering a Residential Condominium Unit and the legal description of such Residential Condominium Unit, the Association shall provide such Listed Mortgagee with timely written notice of the following:

28.2.2.1. Any condemnation, loss or casualty loss which affects any material portion of the Condominium or any Residential Condominium Unit encumbered by a first mortgage held, insured or guaranteed by such Listed Mortgagee;

28.2.2.2. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

28.2.2.3. Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Residential Condominium Unit; and

28.2.2.4. Any failure by a Residential Condominium Unit Owner owning a Residential Condominium Unit encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform his or her obligations under the Condominium Documents, including, but not limited to, any delinquency in the payment of Annual Assessments or Special Assessments, or any other charge owed to the Association by said Residential Condominium Unit Owner where such failure or delinquency has continued for a period of sixty (60) days.



28.2.3. Right of Listed Mortgagee to Receive Financial Statement. Any Listed Mortgagee shall, upon written request made to the Association, be entitled free of charge to financial statements from the Association for the prior fiscal year and the same shall be furnished within a reasonable time following such request.

28.2.4. Right to Cover Cost. Developer (until the date when control of the Association is turned over to Residential Condominium Unit Owners other than the Developer) and any Listed Mortgagee shall have the right, but not the obligation, jointly or individually, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Residential Condominium Unit. Further, Developer (until the date when control of the Association is turned over to Residential Condominium Unit Owners other than the Developer) and any Listed Mortgagees shall have the right, but not the obligation, jointly or individually, and at their sole option, to pay insurance premiums or fidelity bond premiums or any New Total Tax on behalf of the Association when, in regard to insurance premiums, the premiums are overdue and when lapses in policies may or have occurred or, in regard to New Total Taxes, when such tax is in default and which may or has become a charge against the Condominium Property. Developer and any Listed Mortgagees paying insurance premiums or any New Total Tax on behalf of the Association as set forth above shall be entitled to immediate reimbursement from the Association plus any costs of collection, including, but not limited to, Legal Fees.

28.3. Developer Approval of Association Actions. Notwithstanding anything in this Declaration to the contrary, while Developer holds Residential Condominium Units for sale or lease in the ordinary course of business, none of the following actions may be taken without approval in writing by Developer:

(i) Assessment of Developer as a Residential Condominium Unit Owner for capital improvements; and

(ii) Any action by the Association that would be detrimental to the sale or leasing of Residential Condominium Units by Developer or that would interfere with the operation of the Condominium as a transient resort Residential facility.

The determination as to what actions would be detrimental or what constitutes capital improvements shall be in the sole discretion of Developer; provided, however, that an increase in Assessments for Common Expenses without discrimination against Developer shall not be deemed to be detrimental to the sale or lease of Residential Condominium Units.

28.4. Notices. Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) any Residential Condominium Unit Owner, at the address of the person whose name appears as the Residential Condominium Unit Owner on the records of the Association at the time of such mailing and, in the absence of any specific address, at the address of the Residential Condominium Unit owned by such Residential Condominium Unit Owner; (ii) the Association, certified mail, return receipt requested, at 1501 Collins Avenue, Suite 300, Miami Beach, Florida 33139, or such other address as the Association shall hereinafter notify

Developer and the Residential Condominium Unit Owners of in writing; and (iii) Developer, certified mail, return receipt requested, to 1501 Collins Avenue, Suite 300, Miami Beach, Florida 33139, or such other address or addresses as Developer shall hereafter notify the Association of in writing, any such notice to the Association of a change in Developer's address being deemed notice to the Residential Condominium Unit Owners. Upon request of a Residential Condominium Unit Owner the Association shall furnish to such Residential Condominium Unit Owner the then current address for Developer as reflected by the Association records.

28.5. Timeshare Estates. No timeshare estates may be created in any Residential Condominium Unit in the Condominium.

28.6. Assignment of Developer's Rights. Developer shall have the right to assign, in whole or in part, any of its rights granted under this Declaration. No Residential Condominium Unit Owner or other purchaser of all or any portion of the "Land" (as defined in the Master Declaration), Building or Parcel(s) shall, solely by the purchase, be deemed a successor or assignee of any rights granted to Developer under this Declaration, unless such purchaser is specifically designated as such in an instrument executed by the Developer.

28.7. Lease or Transient Lodging. A lessee or transient lodger of a Residential Condominium Unit shall, by execution of a lease or transient occupation of a Residential Condominium Unit, be bound by all applicable terms and provisions of this Declaration and the Condominium Documents and be deemed to accept his or her leasehold estate or other occupancy subject to this Declaration and the Condominium Documents, agree to conform and comply with all provisions contained therein and allow the lessor or the Association to fulfill all obligations imposed pursuant thereto.

28.8. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Condominium designed to make the Condominium safer than it otherwise might be. Developer shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than Developer. Additionally, NEITHER DEVELOPER NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL RESIDENTIAL CONDOMINIUM UNIT OWNERS AGREE TO HOLD DEVELOPER AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, DEVELOPER NOR ANY SUCCESSOR DEVELOPER SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE CONDOMINIUM. NEITHER THE ASSOCIATION, DEVELOPER NOR ANY SUCCESSOR DEVELOPER, SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY. ALL RESIDENTIAL CONDOMINIUM UNIT OWNERS AND OCCUPANTS OF ANY RESIDENTIAL CONDOMINIUM UNIT, AND TENANTS, GUESTS AND INVITEES OF A RESIDENTIAL CONDOMINIUM UNIT OWNER, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD, DEVELOPER, OR ANY SUCCESSOR DEVELOPER DO NOT REPRESENT OR

WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM, IF ANY, DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DEVELOPER OR THE ASSOCIATION MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH RESIDENTIAL CONDOMINIUM UNIT OWNER AND OCCUPANT OF ANY RESIDENTIAL CONDOMINIUM UNIT AND EACH TENANT, GUEST AND INVITEE OF A RESIDENTIAL CONDOMINIUM UNIT OWNER, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD, DEVELOPER AND ANY SUCCESSOR DEVELOPER, ARE NOT INSURERS AND THAT EACH RESIDENTIAL CONDOMINIUM UNIT OWNER AND OCCUPANT OF ANY RESIDENTIAL CONDOMINIUM UNIT AND EACH TENANT, GUEST AND INVITEE OF A RESIDENTIAL CONDOMINIUM UNIT OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO RESIDENTIAL CONDOMINIUM UNITS AND TO THE CONTENTS OF RESIDENTIAL CONDOMINIUM UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND ITS BOARD, DEVELOPER OR ANY SUCCESSOR DEVELOPER HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY RESIDENTIAL CONDOMINIUM UNIT OWNER OR OCCUPANT OF ANY RESIDENTIAL CONDOMINIUM UNIT, OR ANY TENANT, GUEST OR INVITEE OF A RESIDENTIAL CONDOMINIUM UNIT OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE CONDOMINIUM, IF ANY.

28.9. Covenant Not To Sue. Developer hereby discloses that due to certain conditions imposed upon Developer by certain governmental and/or quasi-governmental agencies and/or divisions (collectively, "Government Authority") regarding the construction of the Building, certain areas or portions of the Building may be subject to flooding ("Flooding"). Specifically, Developer hereby discloses that (i) the Garage Parcel is situated below grade (below the adjacent street) and therefore, during periods of heavy rain, the Garage Parcel may flood, and (ii) the Commercial Parcel is situated at grade (even with the adjacent street) and therefore, during periods of heavy rain, the Commercial Parcel may flood. The Master Association, Owner of the Garage Parcel, the Commercial Owner, the Residential Owner, the Commercial Condominium Association, the Residential Condominium Association and the Condominium Unit Owners hereby warrant, represent and covenant not to commence or institute any litigation, lawsuit, cause of action, claim or the like, in either law, equity or otherwise, against Developer, for any damage or injury to either property or person (including death) that arises from, is in connection with or results from the Flooding. In this regard, the Master Association, Owner of the Garage Parcel, the Commercial Owner, the Residential Owner, the Commercial Condominium Association, the Residential Condominium Association and the Condominium Unit Owners, jointly and severally, shall indemnify, defend and hold Developer harmless, from and against, any and all, cost and expense (including, but not limited to, attorney fees and costs through all trial and appellate levels and proceedings ), damage, liability, litigation, lawsuit, cause of action or claim, in either law, equity or otherwise, incurred by and/or commenced against Developer arising from, in connection with or resulting from the Flooding.

## 29. PROVISIONS RELATING TO TERMINATION

29.1. Master Declaration Controlling. The provisions of the Master Declaration with respect to the termination of the Condominium shall control in the event of any inconsistency with this Declaration.

29.2. Survival of Certain Obligations and Restrictions. In the event the Condominium is terminated in accordance with and pursuant to the provisions of this Declaration, or if such provisions shall not apply for any reason pursuant to law, Developer declares, and all Residential Condominium Unit Owners by taking title to a Residential Condominium Unit covenant and agree, that the documents providing for such termination shall require: (i) that any improvements upon what now comprises or hereafter shall comprise the Condominium Property which are committed to transient residential use shall be for transient residential use only unless otherwise permitted under this Declaration and shall contain Residential Condominium Units of a number not in excess of the number of Residential Condominium Units now or hereafter in the Condominium; and (ii) the Residential Condominium Unit Owners of the Condominium (as tenants in common of the Condominium Property as set forth in Paragraph 29.3 below) shall remain obligated to pay their share of the Common Expenses, including Shared Expenses which will continue to be allocated to the Condominium Property in the manner provided in the Condominium Documents as fully as though the Condominium were never terminated, and the obligation to make such payments shall be enforceable by all of the remedies provided for in this Declaration, including a lien on the real property previously included in the Condominium, including the portion now designated as Residential Condominium Units .

29.3. Manner of Termination. This Declaration may be terminated by the affirmative written consent of Residential Condominium Unit Owners owning ninety-five percent (95%) of the Residential Condominium Units then part of the Condominium and the written consent of all Listed Mortgagees then holding mortgages encumbering Residential Condominium Units in the Condominium; provided, however, that the Board consents to such termination by a vote of three-fourths (3/4) of the entire Board taken at a special meeting called for that purpose shall also be required; and also provided that, for so long as Developer owns a Residential Condominium Unit, Developer must consent in writing to such termination.

29.4. Ownership of Common Elements. In the event of the termination of the Condominium, the Condominium Property shall be deemed removed from the provisions of the Act and shall be owned in common by the Residential Condominium Unit Owners, pro rata, in accordance with the percentage each Residential Condominium Unit Owner shares in the Common Elements, as provided in this Declaration; provided, however, each Residential Condominium Unit Owner shall continue to be responsible and liable for his or her share of the Common Expenses under the Declaration, Shared Expenses under the Master Declaration and any and all lien rights provided for in this Declaration or elsewhere shall continue to run with the real property designated herein as Condominium Property and shall encumber the respective percentage shares of the Residential Condominium Unit Owners thereof as tenants in common.

24 IN WITNESS WHEREOF, Developer has caused these presents to be duly executed this day of July, 2016.

WITNESSES:

Signature

Printed Name

Signature

Printed Name

SOUTH BEACH RESORT DEVELOPMENT, LLC,  
a Florida limited liability company

By: South Beach Resort Management, Inc., a Florida  
corporation, as Managing Member

By:

Ronald S. Molko, President

STATE OF FLORIDA

) SS:

COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Ronald S. Molko, as President of South Beach Resort Management, Inc., a Florida corporation, as Managing Member of SOUTH BEACH RESORT DEVELOPMENT, LLC, a Florida limited liability company, freely and voluntarily under authority duly vested in him by said company. He is personally known to me or has produced \_\_\_\_\_ as identification.

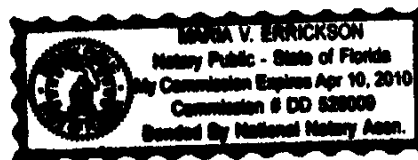
WITNESS my hand and official seal in the County and State last aforesaid this 24 day of

July, 2016.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission expires: 4/10/2010



### CONSENT TO DECLARATION

The undersigned, as owner and holder of that certain Mortgage Deed and Security Agreement recorded October 5, 2003 in O.R. Book 21707, at Page 0691 of the Public Records of Miami-Dade County, Florida, as amended (the "Mortgage") which Mortgage encumbers the real property to be subject to the Declaration of Master Covenants, Easements and Restrictions for DE SOLEIL SOUTH BEACH ("Master Declaration"), to which this Consent is attached, hereby consents to the recordation of the Master Declaration and agrees that the lien and operation of the Mortgage shall be subject to and subordinate to the terms of the Master Declaration.

The execution of this Consent to the Master Declaration shall in no way make the undersigned a concurrent or co-developer under the Master Declaration or otherwise make it liable or obligated for any statement, representation, warranty, act or omission of Developer (as defined in the Master Declaration) or as a developer generally. Mortgagee makes no warranty or any representation of any kind or nature concerning the Master Declaration, any of its terms or provisions, or the legal sufficiency thereof.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed in its name, and its Corporate Seal to be hereunder affixed by its proper Officer thereunder duly authorized, this 15th day of AUGUST, 2006.

Witness:

MELLON UNITED NATIONAL BANK, N.A.

Milagros Rodriguez  
Nancy Franco

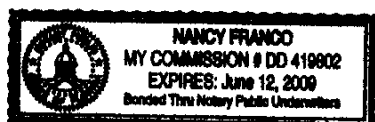
By: [Signature]  
WILLIAM T. O'CALLAGHAN, V.P.

STATE OF FLORIDA            )  
  )SS:  
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 15 day of August, 2006, by William T. O'Callaghan, as VP of MELLON UNITED NATIONAL BANK, N.A. on behalf of the Bank. He is personally known to me and did not take an oath.

[Signature]  
NOTARY PUBLIC  
State of Florida at Large

My commission expires:



FTL:1844769:1

EXHIBIT "A"

Legal Description of the Condominium Property  
(Residential Parcel)

A PORTION OF AIRSPACE THE LOWER BOUNDARY OF WHICH IS THE HORIZONTAL PLANE AT AN ELEVATION OF +26.5 FEET (NATIONAL GEODETIC VERTICAL DATUM – 1929), THE UPPER BOUNDARY OF WHICH IS THE HORIZONTAL PLANE AT AN ELEVATION OF +100.0 FEET (NATIONAL GEODETIC VERTICAL DATUM – 1929) AND THE PERIMETRICAL BOUNDARIES OF WHICH SHALL COINCIDE WITH THE PERIMETRICAL BOUNDARIES OF THE LANDS DESCRIBED BELOW (WHICH ALSO KNOWN AS THE "FEE PARCEL").

SAID PERIMETRICAL BOUNDARIES SHALL PROJECT VERTICALLY TO INTERSECT SAID UPPER AND LOWER BOUNDARIES.

TOGETHER WITH ALL FLOOR SLABS, ROOF SLABS, STRUCTURAL SUPPORTS, ELEVATOR SHAFTS, COLUMNS, HALLWAYS, STAIRWAYS, BALCONIES, ROOF TERRACES, PRIVATE SUN DECKS AND CORRIDORS INCLUDED WITHIN SUCH PERIMETRICAL BOUNDARIES.

FEE PARCEL

LOTS 5 AND 6, "HARRISON AND HAYES SUBDIVISION", RECORDED IN PLAT BOOK 9, AT PAGE 73 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND

LOTS 10, 11, AND 12, "HARRISON AND HAYES SUBDIVISION", RECORDED IN PLAT BOOK 9, AT PAGE 73 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, EXCEPTING THAT PORTION OF LOT 10 OF "HARRISON AND HAYES SUBDIVISION" DESCRIBED AS FOLLOWS:

THE SOUTH 5.00 FEET OF LOT 10 OF SAID SUBDIVISION, TOGETHER WITH THAT PORTION OF LOT 10 IMMEDIATELY NORTH OF THE SAID SOUTH 5.00 FEET OF LOT 10 DESCRIBED AS FOLLOWS:

BEGIN AT A PIPE ON THE NORTHERLY LINE OF SAID SOUTH 5.00 FEET OF LOT 10 OF AFORESAID SUBDIVISION, SAID PIPE BEING 54.89 FEET EASTERLY OF A POINT WHERE THE NORTHERLY LINE OF THE SOUTH 5.00 FEET OF LOT 10 OF THE AFORESAID SUBDIVISION INTERSECTS THE EASTERLY LINE OF COLLINS AVENUE, AS SHOWN ON A PLAT OF DEDICATION OF MERIDIAN AVENUE, EUCLID, PENNSYLVANIA, DREXEL, COLLINS AND MIAMI AVENUES, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 6, AT PAGE 172, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE GO NORTHERLY AT AN INTERIOR ANGLE OF 89°52'00", A DISTANCE OF 23.18 FEET TO A PIPE; THENCE GO EASTERLY AT AN INTERIOR ANGLE OF 90°17'00", A DISTANCE OF 24.65 FEET TO A PIPE; THENCE GO SOUTHERLY AT AN INTERIOR ANGLE OF 89°34'00", A DISTANCE OF 3.00 FEET TO A PIPE; THENCE GO EASTERLY AT AN INTERIOR ANGLE OF 89°34'00", A DISTANCE OF 50.67 FEET ALONG A LINE PARALLEL TO THE SOUTH LINE OF LOT 10 OF AFORESAID SUBDIVISION

TO THE EASTERLY LINE OF LOT 10 OF AFORESAID SUBDIVISION; THENCE GO SOUTHERLY ALONG THE EASTERLY LINE OF AFORESAID LOT 10 OF AFORESAID SUBDIVISION, A DISTANCE OF 20.78 FEET TO A PIPE ON THE NORTHERLY LINE OF THE SOUTHERLY 5.00 FEET OF LOT 10 OF AFORESAID SUBDIVISION; THENCE GO WESTERLY ALONG THE NORTHERLY LINE OF THE SOUTH 5.00 FEET OF LOT 10 OF AFORESAID SUBDIVISION, A DISTANCE OF 75.36 FEET TO THE POINT OF BEGINNING (P.O.B). THE FOREGOING DESCRIPTION WAS TAKEN FROM THE "ABSTRACT OF TITLE".

METES AND BOUNDS DESCRIPTION OF THE ABOVE DESCRIBED PROPERTY WITH FIELD CORRECTIONS FOR DISTANCES IN ERROR IN THE SAID DESCRIPTION IN THE EXCEPTED PORTION OF LOT 10:

COMMENCE (P.O.C.) AT THE SOUTHWESTERLY CORNER OF LOT 10, HARRISON AND HAYES SUBDIVISION, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID SOUTHWESTERLY CORNER OF LOT 10 BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF COLLINS AVENUE AS SHOWN ON SAID PLAT AND RUN N. 88°00'49"E. ALONG THE SOUTHERLY LINE OF LOT 10, A DISTANCE OF 10.141 FEET TO A POINT ON THE EASTERLY LINE OF COLLINS AVENUE, AS SAID EASTERLY LINE IS SHOWN IN PLAT BOOK 6, AT PAGE 172 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN N.7°34'49"E. ALONG THE SAID EASTERLY LINE OF COLLINS AVENUE, A DISTANCE OF 5.07 FEET TO THE POINT OF BEGINNING (P.O.B.) OF THE DESCRIPTION OF THAT PART OF LOTS 10, 11 AND 12, OF "HARRISON AND HAYES SUBDIVISION", RECORDED IN PLAT BOOK 9, AT PAGE 73 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS AND EXCEPTING THEREFROM; THE WESTERLY 10.00 FEET OF SAID LOTS 10, 11 AND 12 FOR STREET WIDENING PURPOSES. THENCE CONTINUE N.7°34'49"E. ALONG THE LAST MENTIONED COURSE, A DISTANCE OF 147.045 FEET TO A POINT ON THE NORTHERLY LINE OF REFERENCED LOT 12; THENCE RUN N.88°00'49"E. ALONG THE NORTHERLY LINE OF LOT 12, A DISTANCE OF 119.417 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 12; THENCE RUN S.2°49'50"W. ALONG THE EASTERLY LINE OF LOTS 12, 11 AND 10, A DISTANCE OF 124.733 FEET; THENCE RUN S.88°00'49"W. ACROSS LOT 10, A DISTANCE OF 53.81 FEET FIELD SURVEY (50.67 FEET "ABSTRACT OF TITLE"); THENCE RUN N.1°33'11"W., A DISTANCE OF 3.00 FEET; THENCE RUN S.88°00'49"W., A DISTANCE OF 24.65 FEET; THENCE RUN S.1°51'11"E., A DISTANCE OF 23.707 FEET FIELD SURVEY (23.18 FEET "ABSTRACT OF TITLE"); THENCE RUN S.88°00'49"W. ALONG THE NORTHERLY LINE OF THE SOUTHERLY 5.00 FEET OF REFERENCED LOT 10, A DISTANCE OF 54.89 FEET TO THE POINT OF BEGINNING (P.O.B.).



# EXHIBIT "B" DE SOLEIL SOUTH BEACH COMMERCIAL CONDOMINIUM

## CERTIFICATE OF SURVEYOR

I, GEORGE C. BOLTON, BEING A PROFESSIONAL SURVEYOR AND MAPPER DULY AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA, DO HEREBY CERTIFY THAT THE CONSTRUCTION OF IMPROVEMENTS WITHIN "EXHIBIT 'A' AND 'B' TO THE DECLARATION OF CONDOMINIUM FOR DE SOLEIL SOUTH BEACH, A COMMERCIAL CONDOMINIUM", ATTACHED HERETO IS SUBSTANTIALLY COMPLETE SO THAT THE MATERIALS COMPRISING "EXHIBIT 'A' AND 'B' OF THE DECLARATION OF CONDOMINIUM FOR DE SOLEIL SOUTH BEACH, A COMMERCIAL CONDOMINIUM", TOGETHER WITH THE PROVISIONS OF THE DECLARATION DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS AND THAT THE IDENTIFICATION, LOCATION, AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT, CAN BE DETERMINED FROM THESE MATERIALS.

BISCAYNE ENGINEERING COMPANY, INC.



GEORGE C. BOLTON  
PROFESSIONAL SURVEYOR AND MAPPER NO. 1643  
STATE OF FLORIDA

REVISED

BISCAYNE ENGINEERING COMPANY, INC.  
Consulting Engineers Planners Surveyors

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529 WEST 81 STREET  
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FLORIDA 33130  
PH: (305) 324-7671  
FAX: (305) 324-0808



DE SOLEIL SOUTH BEACH

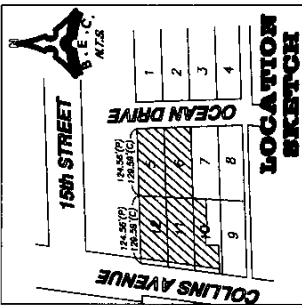
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FIELD BOOK NO. 1000 DRAWN BY: J.A.S. CHECKED BY: A.S.  
PAGE No. 48-53

ORDER No.  
01-77650  
SHEET No.  
1 of 11

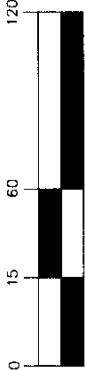
2091-SS-16

F:\SURVEY\PROJECTS\77650-SOUTH BEACH CONDOMINIUM\dwg\BOUNDARY.dwg 4/10/2006 9:58:39 AM ET

# EXHIBIT "B" DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM



GRAPHIC SCALE



( IN FEET )  
1 inch = 60 ft.

## ABBREVIATIONS

- (C) = COMPUTED FROM FIELD MEASUREMENTS
- (P) = PER PLAT
- (M) = MEASURED
- (L) = PER LEGAL DESCRIPTION
- P.B. = PLAT BOOK
- P.G. = PAGE
- N.T.S. = NOT TO SCALE
- PRINTED = PARKER KALON VAL AND DISC
- CBS = CONCRETE BLOCK STRUCTURE
- FND = FOUND
- CONC. = CONCRETE
- BLDG. = BUILDING
- C & C. = CURB & GUTTER

## LEGEND:

- WATER METER
- WELL
- TRAFFIC LIGHT POST
- GAS VALVE
- CONCRETE BLOCK STRUCTURE
- WELL
- TRAFFIC LIGHT POST
- GAS VALVE
- CONCRETE BLOCK STRUCTURE
- WELL
- TRAFFIC LIGHT POST
- GAS VALVE
- CONCRETE BLOCK STRUCTURE
- WELL
- TRAFFIC LIGHT POST
- GAS VALVE
- CONCRETE BLOCK STRUCTURE

## SURVEYOR'S NOTES:

1. THE SURVEYOR HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE PROPERTY LIES WITHIN THE HARRISON AND HAYES SUBDIVISION, PLAT BOOK 9, PAGE 73, AND THE COLLINS AVENUE SUBDIVISION, PLAT BOOK 10, PAGE 56, BOTH OF WHICH ARE RECORDED IN THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.
2. THE SURVEYOR HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE PROPERTY LIES WITHIN THE HARRISON AND HAYES SUBDIVISION, PLAT BOOK 9, PAGE 73, AND THE COLLINS AVENUE SUBDIVISION, PLAT BOOK 10, PAGE 56, BOTH OF WHICH ARE RECORDED IN THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.
3. FLOOD ZONE INFORMATION: THE PROPERTY IS LOCATED WITHIN FLOOD ZONE X-1, AS SHOWN ON THE FLOOD ZONE MAP OF DADE COUNTY, FLORIDA, DATED 1985.
4. UNDERGROUND FOUNDATION ENCROACHMENTS NOT LOCATED OR SHOWN.
5. ON FEBRUARY 11, 1985, THE SURVEYOR CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND FOUND THAT THE PROPERTY LIES WITHIN THE HARRISON AND HAYES SUBDIVISION, PLAT BOOK 9, PAGE 73, AND THE COLLINS AVENUE SUBDIVISION, PLAT BOOK 10, PAGE 56, BOTH OF WHICH ARE RECORDED IN THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.
6. 5 FOOT UTILITY EASEMENTS ARE SHOWN ON THE PLAT BOOK 9, PAGE 73, AND THE COLLINS AVENUE SUBDIVISION, PLAT BOOK 10, PAGE 56, BOTH OF WHICH ARE RECORDED IN THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.
7. APPARENT GEOMETRIC ERRORS IN DESCRIPTION HAVE BEEN DISCOVERED BY THE SURVEYOR. THE SURVEYOR HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE PROPERTY LIES WITHIN THE HARRISON AND HAYES SUBDIVISION, PLAT BOOK 9, PAGE 73, AND THE COLLINS AVENUE SUBDIVISION, PLAT BOOK 10, PAGE 56, BOTH OF WHICH ARE RECORDED IN THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

## LEGAL DESCRIPTION:

Lot 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, HARRISON AND HAYES SUBDIVISION, PLAT BOOK 9, PAGE 73, AND THE COLLINS AVENUE SUBDIVISION, PLAT BOOK 10, PAGE 56, BOTH OF WHICH ARE RECORDED IN THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

## AND:

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DE SOLEIL SOUTH BEACH

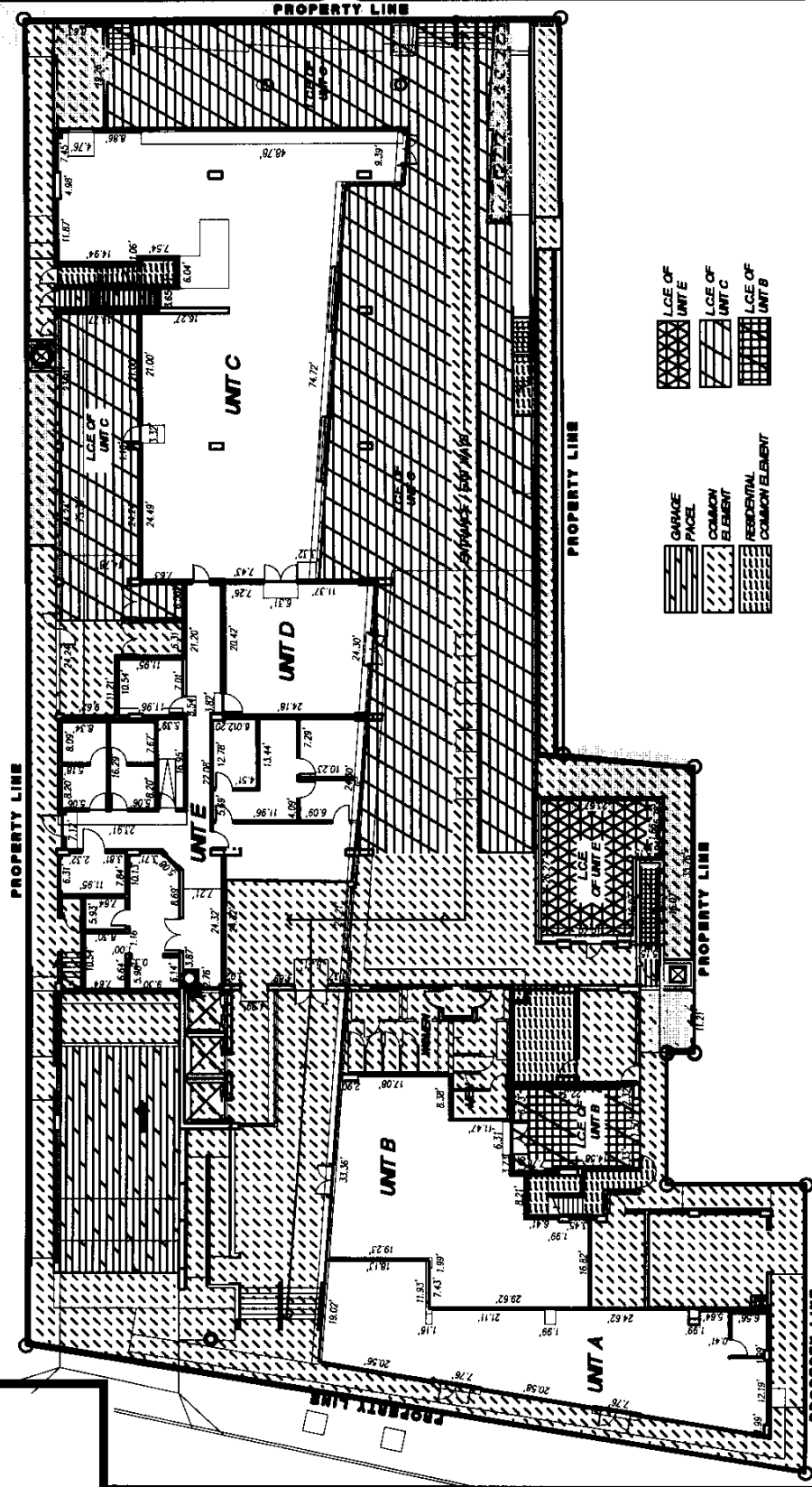
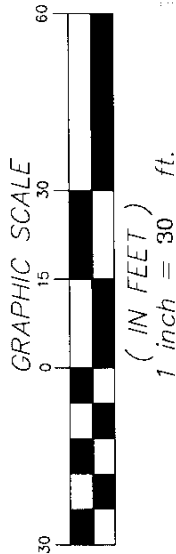
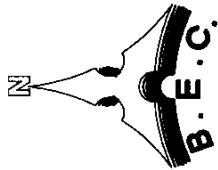
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CHECKED BY: A.B.  
DATE: 1-14-00  
APPROVED BY: B.O.

ORDER NO.  
01-77650  
SHEET No.  
2 of 11

2091-SS-16

## Page 59 of 103

# EXHIBIT "B" DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM



NOTE:  
UNITS A, UNIT B, UNIT C, UNIT D AND UNIT E ARE UNITS WITHIN THE  
DESOLEIL SOUTH BEACH COMMERCIAL CONDOMINIUM

GROUND FLOOR PLAN

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DE SOLEIL SOUTH BEACH

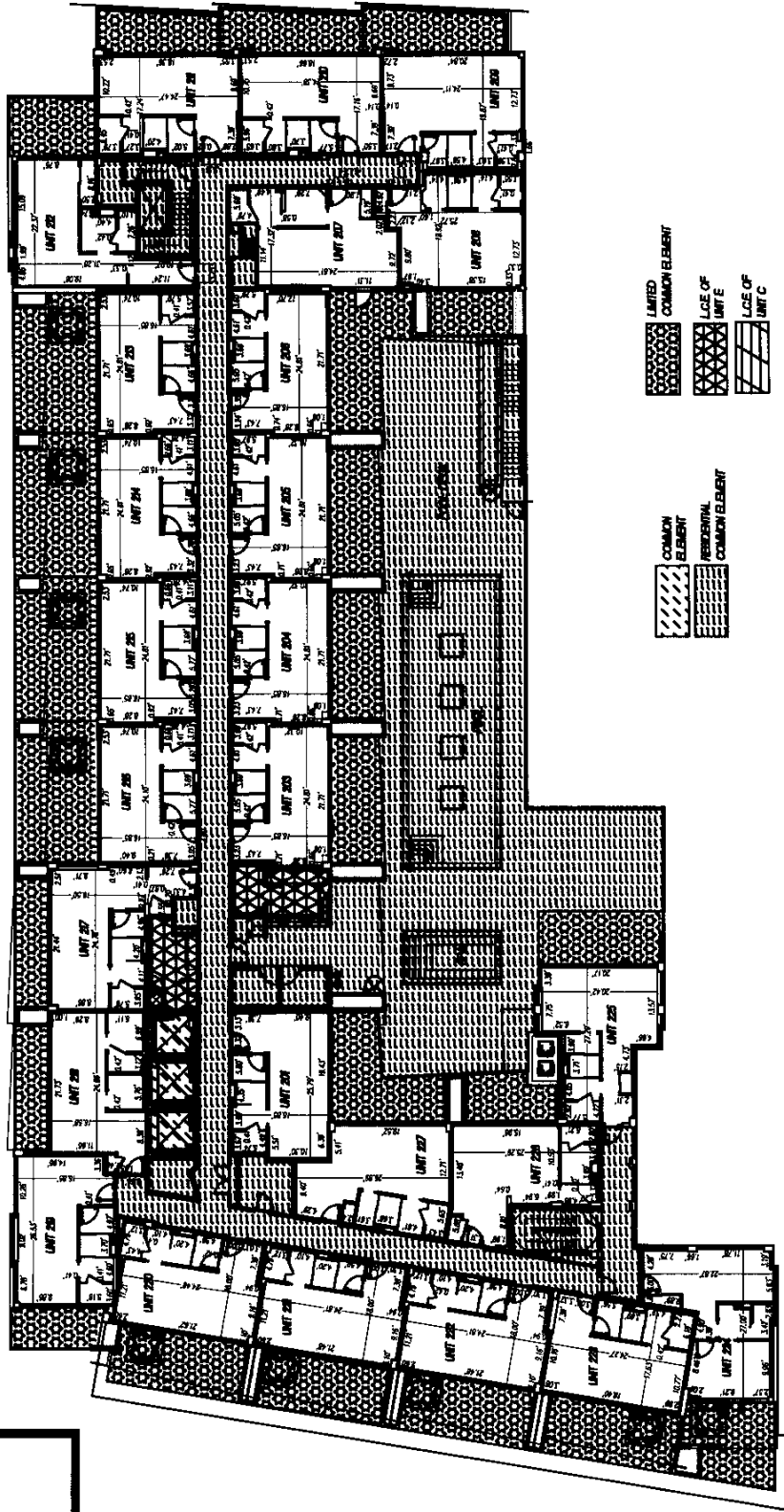
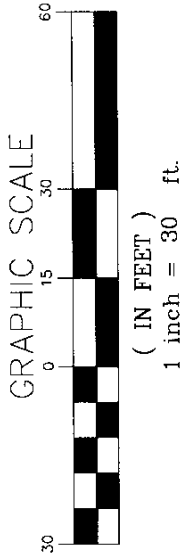
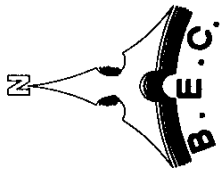
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PAGE NO. 48-53

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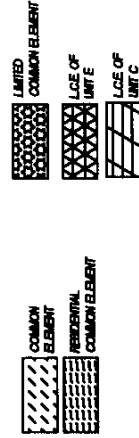
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# EXHIBIT "B" DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM



SECOND FLOOR PLAN



REVISED

BISCAYNE ENGINEERING COMPANY, INC.

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E-MAIL: info@biscayneengineering.com



DE SOLEIL SOUTH BEACH

CHECKED BY J.A.S.

DRAWN BY J.A.S.

DATE: 03-11-04 APPROVED BY J.A.S.

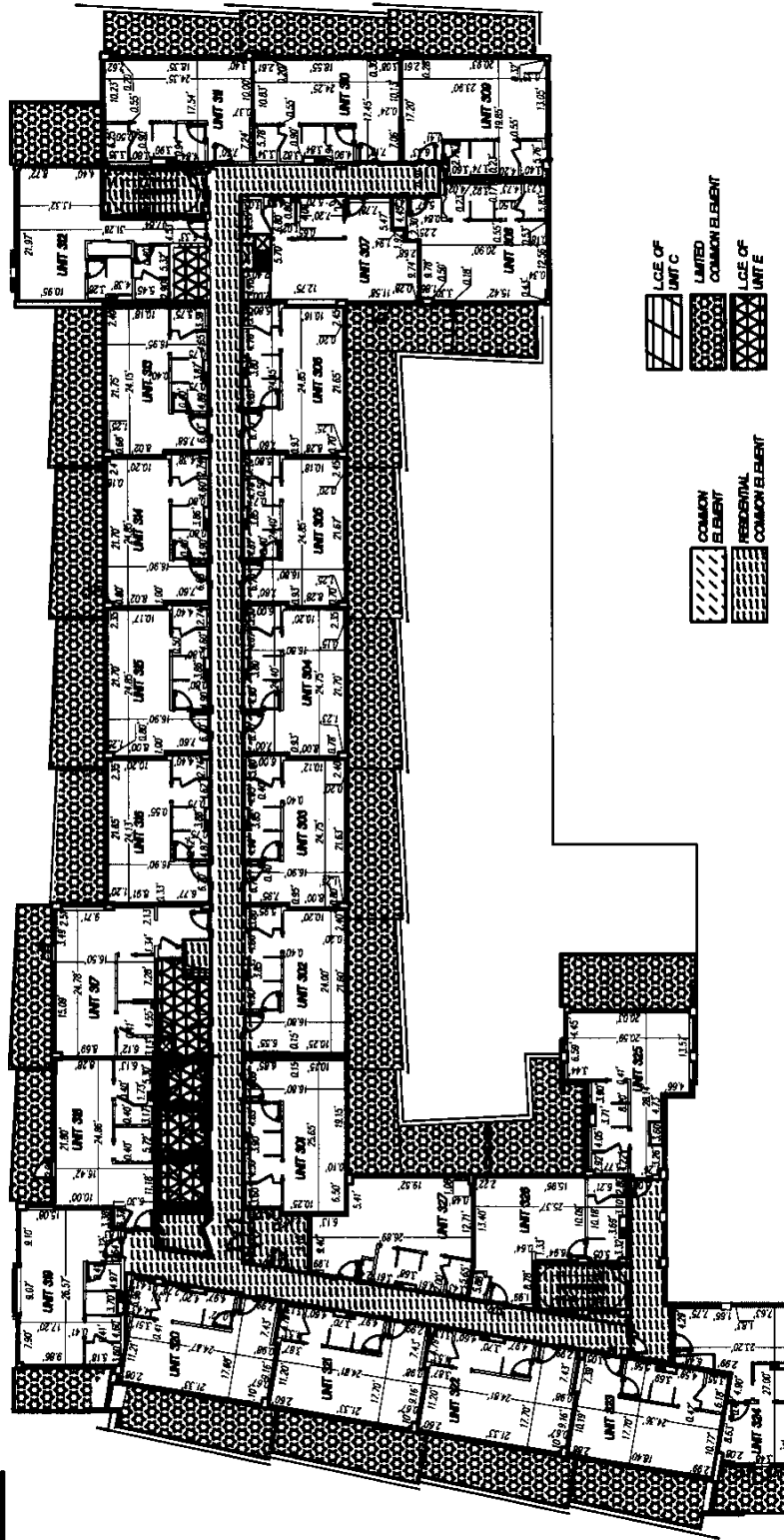
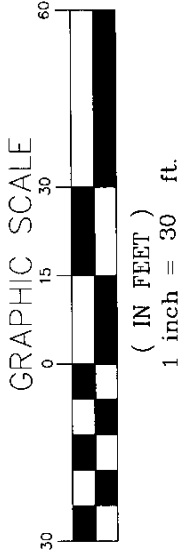
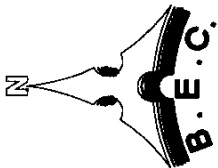
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2091-SS-16

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# EXHIBIT "B" DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM



THIRD FLOOR PLAN

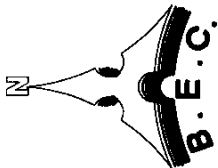
BISCAYNE ENGINEERING COMPANY, INC.  
Consulting Engineers Planners Surveyors  
529 WEST FLAGLER STREET  
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E-MAIL: info@biscayneengineering.com  
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DE SOLEIL SOUTH BEACH  
DRAWN BY: J.A.S. CHECKED BY: A.D.  
FIELD BOOK NO. 2085  
SCALE: 1"=30'  
DATE: 11/10/06  
DESIGNED BY: A.D.  
APPROVED BY: A.D.

ORDER NO.  
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REVISED  
6 of 11

2091-SS-16

# EXHIBIT "B" DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM

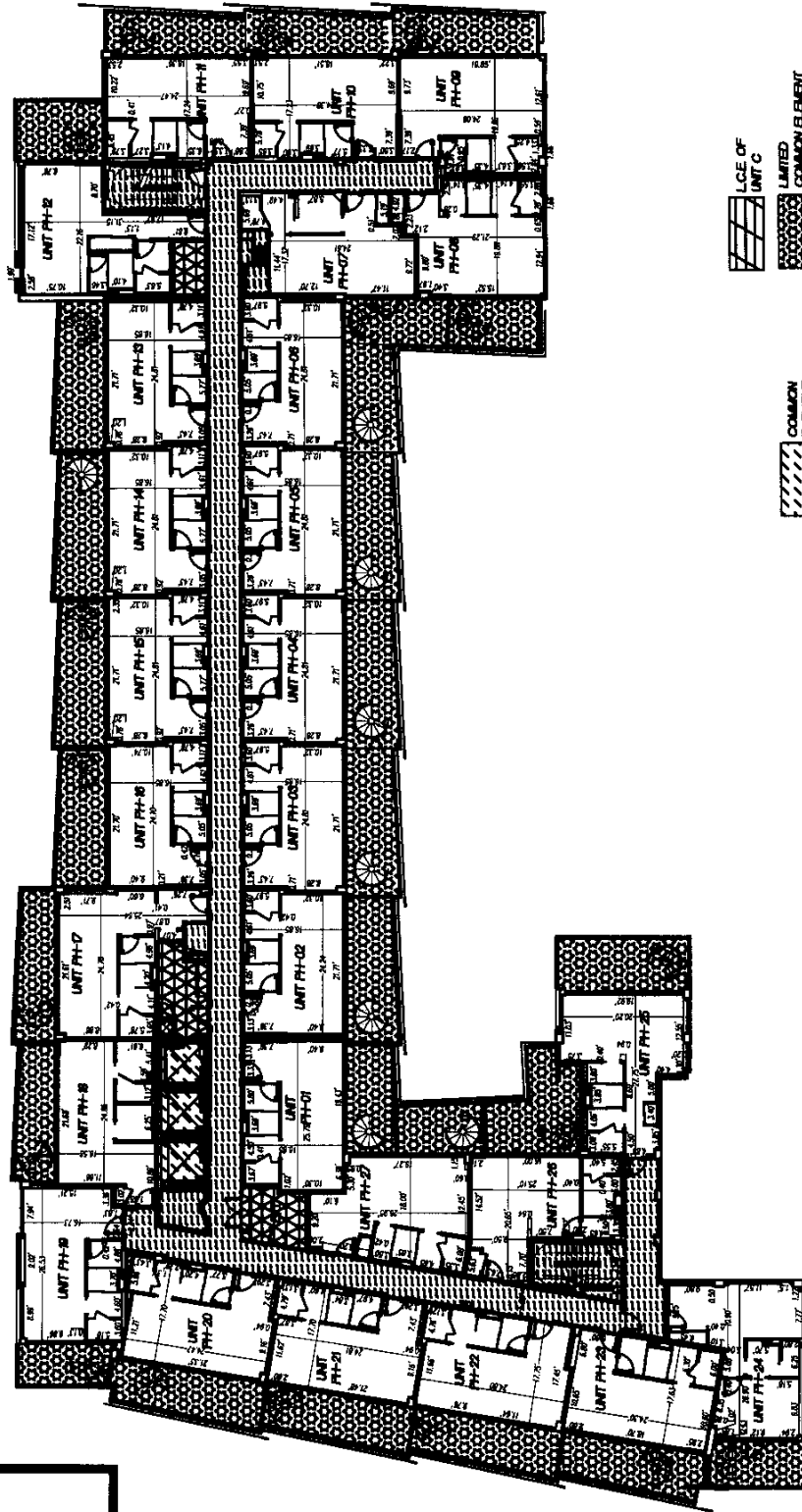


GRAPHIC SCALE



( IN FEET )

1 inch = 30 ft.



FOURTH FLOOR PLAN

REVISED

BISCAYNE ENGINEERING COMPANY, INC.

Consulting Engineers Planners Surveyors

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FAX: (305) 324-0808



DE SOLEIL SOUTH BEACH

DRAWN BY: J.L.E. CHECKED BY: A.D.

FIELD BOOK NO. 2008

DATE: 11-14-08

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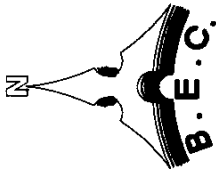
DESIGNED BY: A.D.

APPROVED BY: A.D.

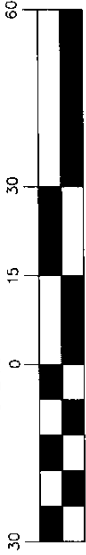
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2091-SS-16

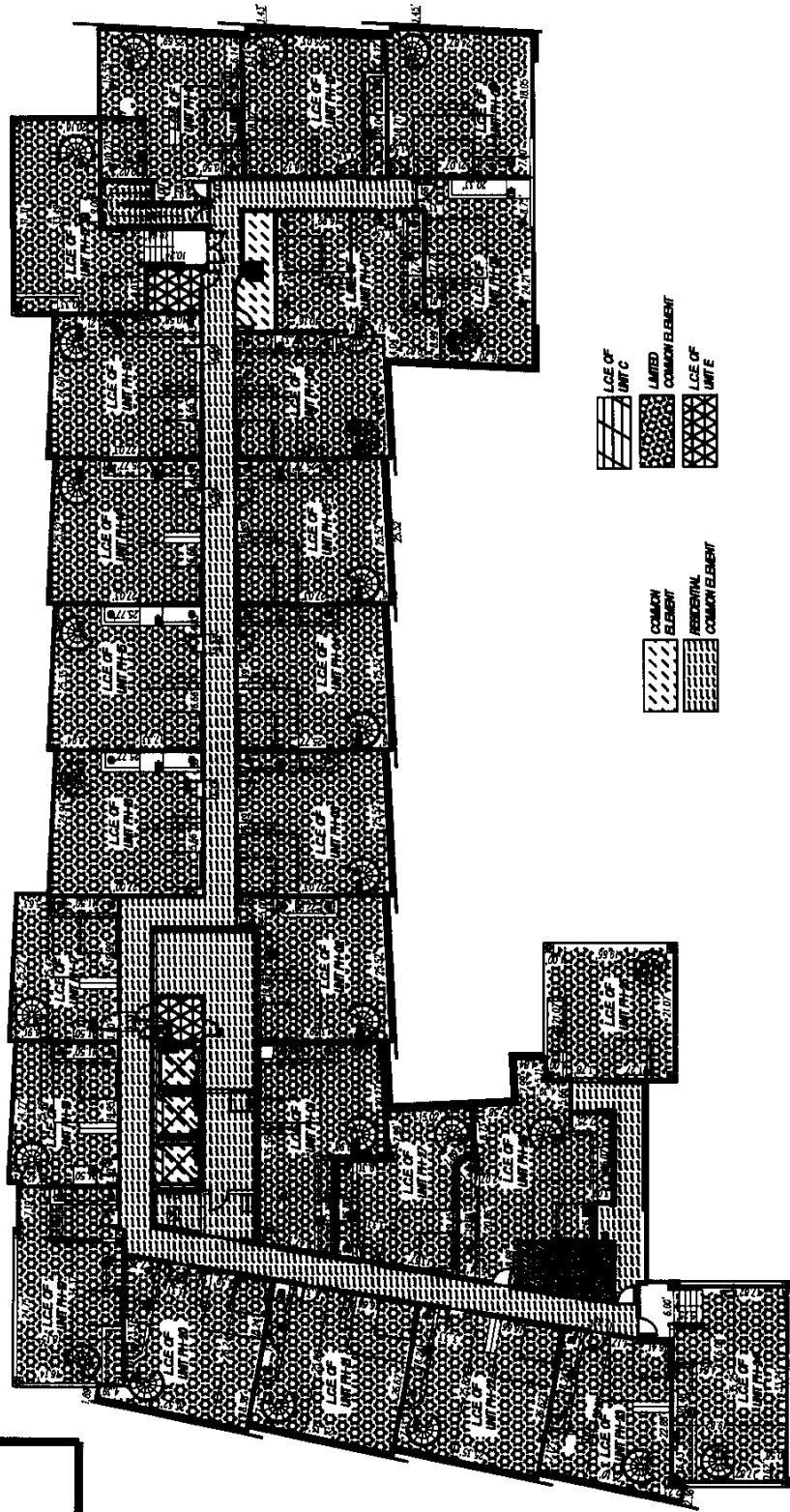
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GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



ROOF LEVEL

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WEB SITE: www.biscayneengineering.com  
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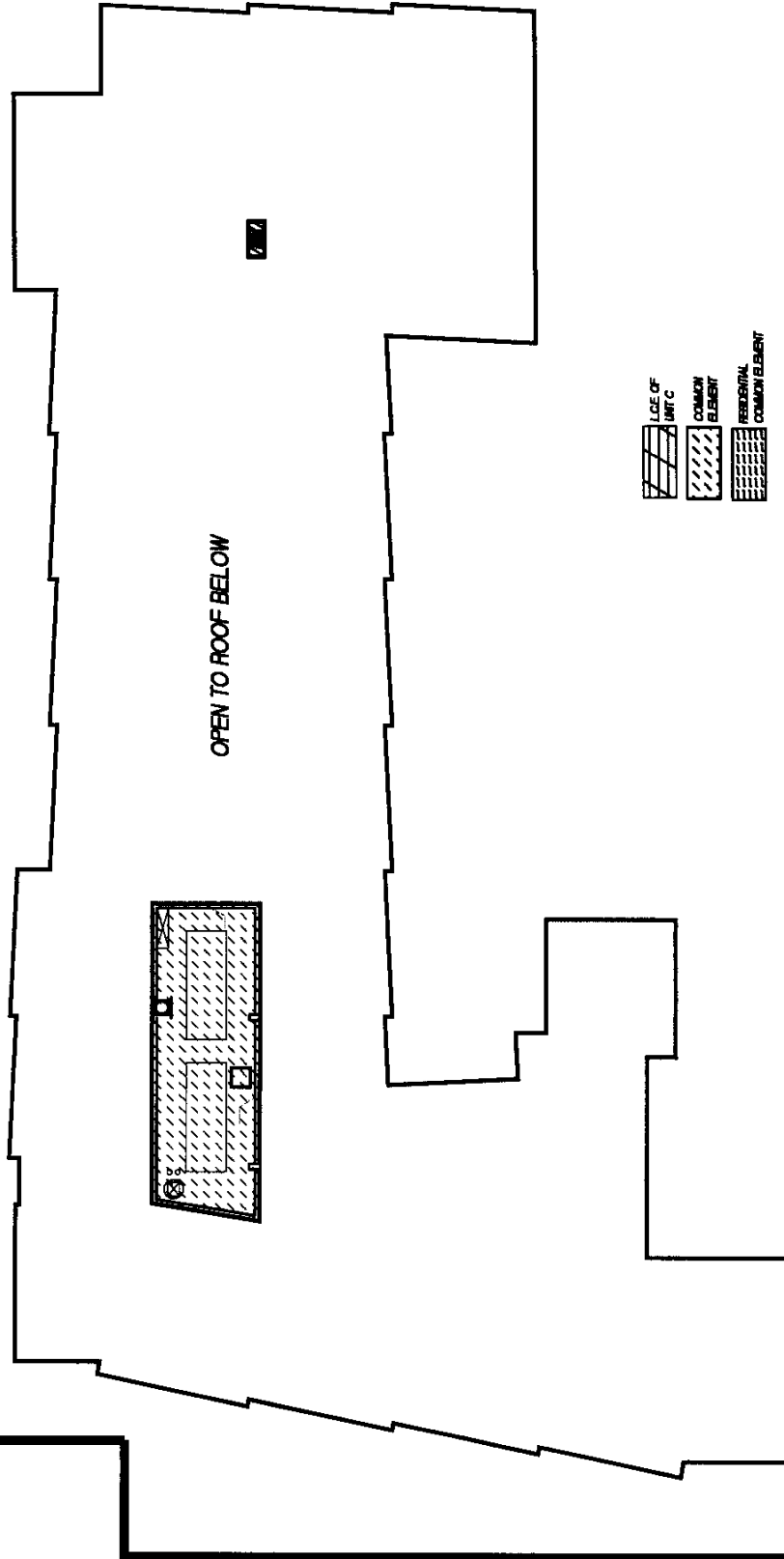
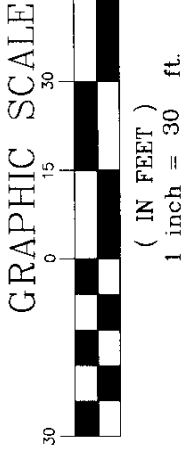
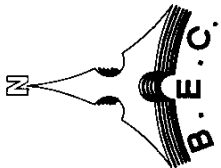
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FIELD BOOK NO. 2282 PAGE NO. 48-53

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JAN 11 2001  
8 of 11

2091-SS-16



# EXHIBIT "B" DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM



2nd ROOF LEVEL

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**BISCAYNE ENGINEERING COMPANY, INC.**  
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WEB SITE: www.biscayneengineering.com

**DE SOLEIL SOUTH BEACH**  
FOR: SOUTH BEACH RESORT  
SCALE: 1"=30' DESIGNED BY: A.O.  
DRAWN BY: J.A.S. CHECKED BY: A.O.  
FIELD BOOK No. 2000  
PAGE No. 48-49

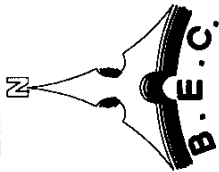
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01-77650  
SHEET No.  
8 of 11

2091-SS-16

GRAPHIC SCALE

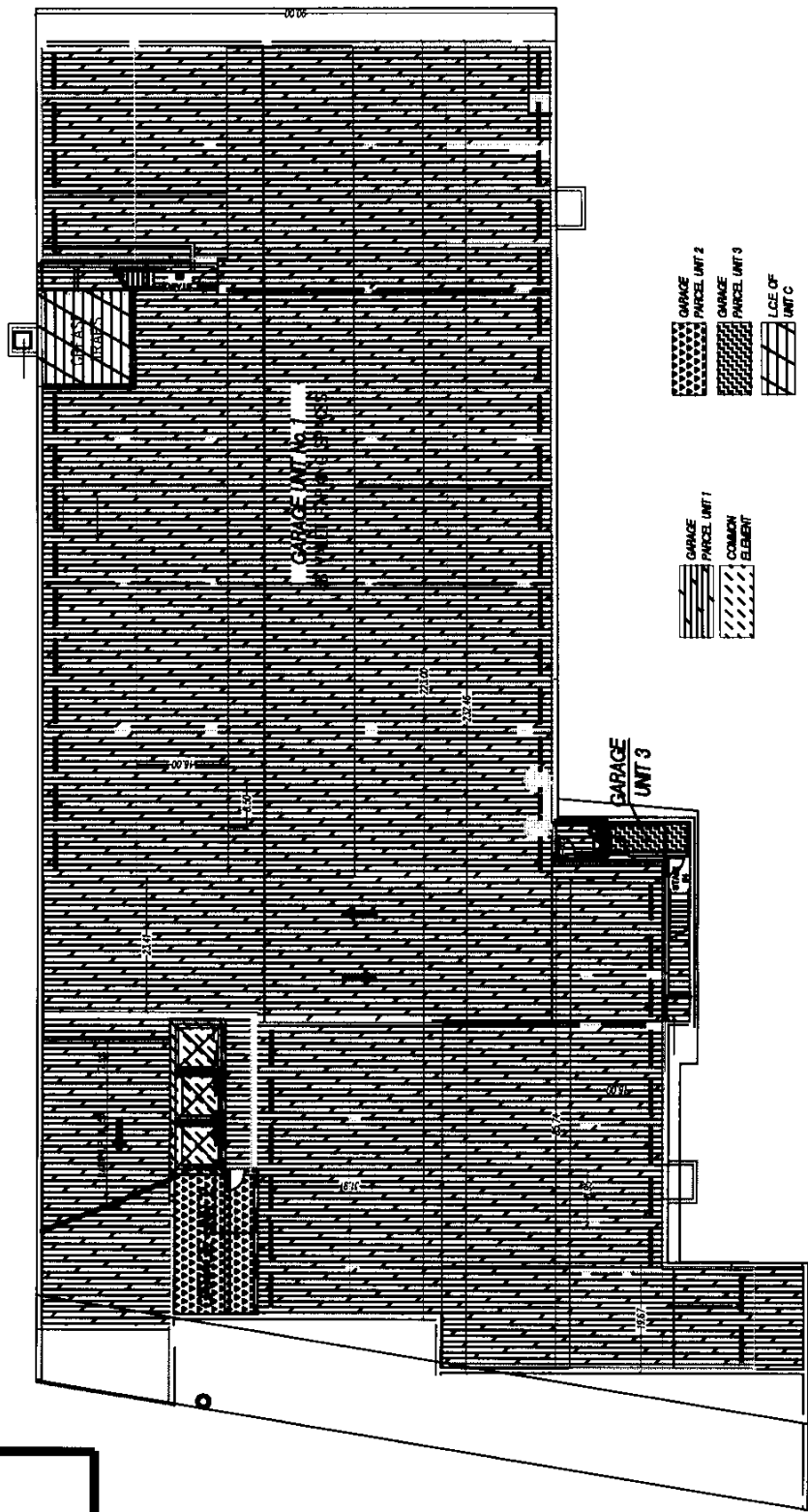
( IN FEET )

1 inch = 30 ft.



GRAPHIC SCALE

( IN FEET )

 $1 \text{ inch} = 30 \text{ ft.}$ 

**GARAGE FLOOR PLAN**

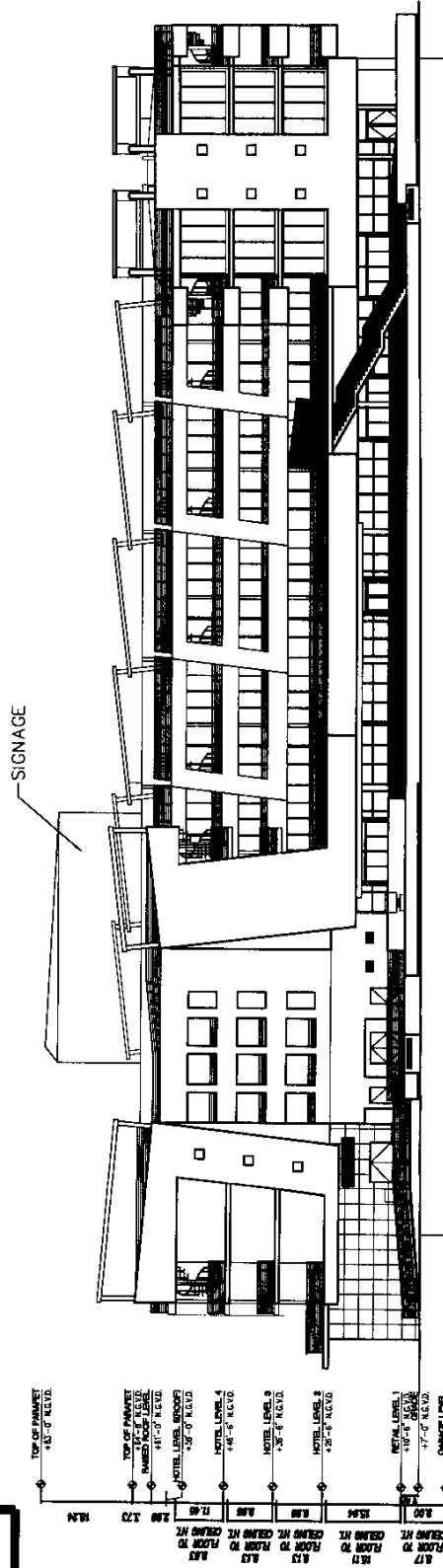
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E-MAIL: [info@biscayneengineering.com](mailto:info@biscayneengineering.com)  
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DATE: 03-10-10		APPROVED BY: _____		FIELD BOOK NO. 2366		PAGE NO. 49-53	
SCALE: 1"=1 MI.		DESIGNED BY: _____		DRAWN BY: J.A.S.		CHECKED BY: A.D.	
COR. SOUTH BEACH							
DE SOLEIL SOUTH BEACH							

ORDER No.  
01-77650  
SHEET No.  
10 of 11

# EXHIBIT "B" DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM



SOUTH ELEVATION

F:\SURVEY\PROJECTS\770008\77650-SOUTH BEACH CONDOMINIUM.dwg (CONDO DOCS-ELEV-SOUTH.dwg 4/26/2006 1:39:19 PM EST)

<b>BISCAYNE ENGINEERING COMPANY, INC.</b> Consulting Engineers Planners Surveyors 528 WEST FLAGLER STREET MIAMI, FLORIDA 33130 PH: (305) 324-7871 FAX: (305) 324-0809 WEB SITE: www.biscayneengineering.com E-MAIL: info@biscayneengineering.com		ORDER No. 01-77650 11 of 11
DE SOLEIL SOUTH BEACH SCALE: 1/8" = 1'-0" DATE: 04-26-06 DRAWN BY: J.A.S. CHECKED BY: A.B. FIELD BOOK No. 2069 PAGE No. 48-53		TOP SOUTH BEACH RESORT SCALE: 1/8" = 1'-0" DATE: 04-26-06 DRAWN BY: J.A.S. CHECKED BY: A.B. FIELD BOOK No. 2069 PAGE No. 48-53

## **DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM**

### **NOTES TO SURVEY**

#### **1. DESCRIPTION OF RESIDENTIAL CONDOMINIUM UNITS**

Each Residential Condominium Unit shall consist of that part of the Building containing such Residential Condominium Unit which lies within the boundaries of the Residential Condominium Unit, which boundaries are as follows:

##### **A. Upper Boundaries**

The upper boundary of each Residential Condominium Unit shall be the sloped and/or horizontal plane of the unfinished ceiling extended to an intersection with the perimetrical boundaries.

##### **B. Lower Boundaries**

The lower boundary of each Residential Condominium Unit shall be the horizontal plane of the unfinished floor slab of that Residential Condominium Unit extended to an intersection with the perimetrical boundaries.

##### **C. Perimetrical Boundaries**

The perimetrical boundaries of each Residential Condominium Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:

##### **(1) EXTERIOR BUILDING WALLS:**

The intersecting vertical plane(s) of the innermost unfinished surfaces of the exterior wall of the building bounding such Residential Condominium Unit.

##### **(2) INTERIOR BUILDING WALLS:**

The vertical planes of the innermost unfinished surface of the party walls dividing Residential Condominium Units extended to intersections with other perimetrical boundaries.


Drywall and studs are included within the boundaries of each Residential Condominium Unit.

##### **D. Common Elements**

For a description of Common Elements and Shared Facilities, please refer to Exhibit B of the Declaration of Master Covenants, Easements and Restrictions for De Soleil South Beach Residential Condominium.

# State of Florida

EXHIBIT C



Department of State

I certify from the records of this office that DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on June 22, 2006.

The document number of this corporation is N06000006752.

I further certify that said corporation has paid all fees due this office through December 31, 2006, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 506A00042021-062306-N06000006752-1/1, noted below.

Authentication Code: 506A00042021-062306-N06000006752-1/1



Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Twenty-third day of June, 2006

*Sue M. Cobb*  
Sue M. Cobb  
Secretary of State



I certify the attached is a true and correct copy of the Articles of Incorporation of DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM ASSOCIATION, INC., a Florida corporation, filed on June 22, 2006, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H06000164164. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this corporation is N06000006752.

Authentication Code: 506A00042021-062306-N06000006752-1/1



Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Twenty-third day of June, 2006

*Sue M. Cobb*  
Sue M. Cobb  
Secretary of State

FILED

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION  
OF  
DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM ASSOCIATION, INC.  
(A Florida Corporation Not for Profit)**

In order to form a corporation not for profit, under and in accordance with Chapter 617 of the Florida Statutes, I, the undersigned, hereby incorporate this corporation not for profit, for the purposes and with the powers hereinafter set forth and to that end, I do, by these Articles of Incorporation, certify as follows:

The terms contained in these "Articles" are defined in the Condominium Act, Chapter 718, Florida Statutes, 1976 ("Act") as amended through the date of recording of the Declaration amongst the Public Records of Miami-Dade County, Florida, shall have the meaning of such terms set forth in such Act, and, for clarification, the following terms will have the following meanings:

A. "Act" means Condominium Act, Chapter 718, Florida Statutes, 1976, as amended through the date of recording the Declaration amongst the Public Records.

B. "Articles" means these Articles of Incorporation of the Association.

C. "Assessments" means the share of funds required for the payment of "Annual Assessments" and "Special Assessments" (as such terms are defined in the Declaration) and "Assessments," "Capital Improvement Assessments," "Common Assessments," "Special Assessments" and "Reconstruction Assessments" (as such terms are defined in the Master Declaration) which from time to time are assessed against a Residential Condominium Unit Owner.

D. "Association" means De Soleil South Beach Residential Condominium Association, Inc., a Florida corporation not for profit, responsible for operating De Soleil South Beach Residential Condominium.

E. "Board" means the Board of Directors of the Association.

F. "Building" means the improvements which include the Condominium, a parcel containing or to contain a commercial condominium and a parking garage, and more particularly, the five (5)-story mixed-use building described in the Master Declaration.

G. "Bylaws" means the Bylaws of the Association.

H. "Common Elements" means the portion of the Condominium Property not included in the Residential Condominium Units.

I. "Common Expenses" means expenses for which the Residential Condominium Unit Owners are liable to the Association as set forth in various sections of the Act and as described in the Condominium Documents, including the Master Declaration, and include:

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- (i) expenses incurred in connection with operation, maintenance, repair or replacement of the "Common Elements" (as defined in the Declaration), costs of carrying out the powers and duties of the Association with respect to the Condominium and the Condominium Property, and cost of fire and extended coverage insurance on the Condominium Property; and
- (ii) any other expenses designated as Common Expenses from time to time by the Board; and
- (iii) the "Shared Expenses" allocated to the Condominium pursuant to the Master Declaration

J. "Condominium" means that portion of the Building as described in Exhibit "A" attached to the Declaration and the improvements thereon being submitted to condominium ownership pursuant to the Declaration. The Condominium is defined as the "Residential Parcel" in the Declaration and in the Master Declaration.

K. "Condominium Documents" means in the aggregate the Declaration, these Articles, the Bylaws, any rules or regulations promulgated by the Association, the Master Declaration, and all of the instruments and documents referred to therein and executed in connection with the Condominium.

L. "Condominium Property" means the property submitted to condominium ownership pursuant to the Declaration and all improvements thereon, subject to any and all easements associated therewith, including, but not limited to, the Residential Condominium Units and Common Elements and all easements intended for use in connection with the Condominium, all as more particularly described in the Declaration.

M. "County" means Miami-Dade County, Florida.

N. "Declaration" means the Declaration of Condominium by which the Condominium is submitted by Developer to the condominium form of ownership in accordance with the Act.

O. "Developer" means South Beach Resort Development, LLC, a Florida limited liability company, its successors, grantees and assigns. A Residential Condominium Unit Owner shall not, solely by the purchase of a Residential Condominium Unit, be deemed a successor or assign of Developer or of the rights of Developer under the Condominium Documents unless such Residential Condominium Unit Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Developer.

P. "Director" means a member of the Board.

Q. "Residential Condominium Unit" means "unit" as described in the Act and is that portion of the Condominium Property which is subject to exclusive ownership and which is to be utilized for residential or transient lodging purposes.

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R. "Residential Condominium Unit Owner" means "unit owner" as defined in the Act and is the owner of a Residential Condominium Unit.

S. "Master Association" means De Soleil South Beach Association, Inc., a Florida corporation not for profit, organized to administer the Building and having as its members the Association, the "Owner" of the "Commercial Parcel" (or the "Commercial Condominium Association" upon the recordation of the "Commercial Condominium Declaration" which declares the Commercial Parcel to be a condominium) and the "Owner" of the "Garage Parcel" (all such terms are defined in the Master Declaration).

T. "Master Declaration" means the Declaration of Master Covenants, Easements and Restrictions for De Soleil South Beach recorded or to be recorded in the Public Records of the County.

U. "Member" means a member or members of the Association.

V. "Public Records" means the Public Records of the County.

W. "Voting Certificate" means "voting certificate" as defined in the Act and is the document which designates one (1) of the record title owners, or the corporate, partnership or entity representative who is authorized to vote on behalf of a Residential Condominium Unit owned by more than one (1) Residential Condominium Unit Owner.

X. "Voting Interests" means "voting interests" as defined in the Act and are the voting rights distributed to Members pursuant to the Declaration.

#### ARTICLE I NAME, PRINCIPAL AND MAILING ADDRESS

The name of this Association shall be DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM ASSOCIATION, INC., whose principal and mailing address is 1501 Collins Avenue, Suite 300, Miami Beach, Florida 33139.

#### ARTICLE II PURPOSE OF ASSOCIATION

The purpose for which this Association is organized is to maintain, operate and manage the Condominium, including the Condominium Property, and to own portions of, operate, lease, sell, trade and otherwise deal with certain of the improvements located therein now or in the future, all in accordance with the plan set forth in the Condominium Documents and all other lawful purposes.

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### ARTICLE III POWERS

The Association shall have the following powers and shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not for profit, which are not in conflict with the terms of the Condominium Documents or the Act.

B. The Association shall have all of the powers granted to the Association in the Condominium Documents. All provisions of the Declaration and Bylaws which grant powers to the Association are incorporated into these Articles, including, but not limited to, the operation, maintenance, management, repair and replacement of the Condominium Property and the Common Elements and the levying and collection of Common Expenses and Shared Expenses and the promulgation and enforcement of rules and regulations.

C. The Association shall have all of the powers of a condominium association under the Act and shall have all of the powers reasonably necessary to implement the purposes of the Association including, but not limited to, the following:

1. To make, establish, amend and enforce reasonable rules and regulations governing the use of the Condominium Property (including the Residential Condominium Units and the Common Elements);

2. To make, levy, collect and enforce Assessments and special charges and any other charges and/or fees as provided in the Condominium Documents and the Master Declaration against Residential Condominium Unit Owners, in order to provide funds to pay for the expenses of the Association and the Master Association, the maintenance, operation and management of the Condominium and the payment of Common Expenses, Shared Expenses and other expenses in the manner provided in the Condominium Documents and the Act and to use and expend the proceeds of such Assessments in the exercise of the powers and duties of the Association;

3. To maintain, repair, replace and operate the Condominium Property in accordance with the Declaration and the Act;

4. To reconstruct improvements on the Condominium Property in the event of casualty or other loss;

5. To enforce by legal means the obligations of the Members and the provisions of the Condominium Documents and the Act;

6. To employ personnel, retain independent contractors and professional personnel, and enter into service contracts to provide for the maintenance, operation, administration and management of the Condominium Property and to enter into any other agreements consistent with the purposes of the Association including, but not limited to, agreements as to the management

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of the Condominium Property and agreements to acquire possessory or use interests in real property and to provide therein that the expenses of said real property and any improvements thereon, including taxes, insurance, utility expenses, maintenance and repairs, are Common Expenses of the Condominium; and

7. To purchase: (i) Residential Condominium Unit(s) upon which the Association has chosen to exercise any right of first refusal it may have and to obtain such financing as is necessary to effectuate the same; and (ii) other real and/or personal property as determined by the Association in compliance with the Condominium Documents; and

8. To serve as the "Owner" (as defined in the Master Declaration) of the Residential Parcel as contemplated by the Master Declaration.

#### ARTICLE IV MEMBERS

The qualification of Members of the Association, the manner of their admission to membership, the manner of the termination of such membership, and the manner of voting by Members shall be as follows:

A. Until such time as the Condominium is submitted to condominium ownership by the recordation of the Declaration, the membership of this Association shall be comprised solely of the members of the "First Board" (as defined in Article IX hereof).

B. Once the Condominium is submitted to condominium ownership by the recordation of the Declaration, the Residential Condominium Unit Owners, which shall mean in the first instance Developer as the owner of all the Residential Condominium Units, shall be entitled to exercise all of the rights and privileges of the Members.

C. Except as set forth above, membership in the Association shall be established by the acquisition of ownership of fee title to a Residential Condominium Unit as evidenced by the recording of a deed or other instrument of conveyance amongst the Public Records whereupon the membership of the prior Residential Condominium Unit Owner shall terminate as to that Residential Condominium Unit. Where title to a Residential Condominium Unit is acquired from a party other than Developer, the person, persons, corporation or other legal entity thereby acquiring such Residential Condominium Unit, shall not be a Member unless and until such acquisition is in compliance with the provisions of the Declaration. New Members shall deliver to the Association a true copy of the deed or other instrument of acquisition of title to the Residential Condominium Unit.

D. No Member may assign, hypothecate or transfer in any manner his/her membership or his/her share in the funds and assets of the Association except as an appurtenance to his/her Residential Condominium Unit.

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E. With respect to voting, the following provisions shall apply:

1. Each Residential Condominium Unit shall be entitled to one (1) vote, which vote shall be exercised and cast in accordance with the Declaration and the Condominium Documents. In the event there is more than one (1) owner with respect to a Residential Condominium Unit as a result of the fee interest in such Residential Condominium Unit being held by more than one (1) person or entity, such Residential Condominium Unit Owners collectively shall be entitled to one (1) vote for each Residential Condominium Unit owned in the manner determined by the Declaration.

2. The membership shall be entitled to elect the Board as provided in Article IX of these Articles.

3. Notwithstanding any other provisions of these Articles, on matters which require voting by the Members, if the question is one upon which, by express provisions of the Act or the Condominium Documents (provided the express provisions of the Condominium Documents are in accordance with the requirements of the Act), requires a vote of other than a majority vote of a quorum, then such express provision shall govern and control the required vote on the decision of such question.

ARTICLE V  
TERM

The term for which this Association is to exist shall be perpetual. In the event of dissolution of the Association (unless same is reinstated), other than incident to a merger or consolidation, all of the assets of the Association shall be conveyed to a similar not for profit corporation or a public agency having a similar purpose, or any Member may petition the appropriate circuit court of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and its properties in the place and instead of the dissolved Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties.

ARTICLE VI  
INCORPORATOR

The name and address of the Incorporator of these Articles is as follows: Ronald S. Molko, 1501 Collins Avenue, Suite 300, Miami Beach, Florida 33139.

ARTICLE VII  
OFFICERS

A. The affairs of the Association shall be managed by a President, one (1) or several Vice Presidents, a Secretary and a Treasurer and, if elected by the Board, an Assistant Secretary and an Assistant Treasurer, which officers shall be subject to the directions of the Board. Except for officers elected prior to the Turnover Date, officers must be Members, or the parents, children, spouses, officers, directors, shareholders, partners, or members of Members. The Board may employ

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a managing agent and/or such other managerial and supervisory personnel or entities as it deems necessary to administer or assist in the administration of the operation or management of the Association and Developer shall have the right to be reimbursed for expenses incurred by Developer on behalf of the Association in managing the Association.

B. The Board shall elect the President, the Vice President, the Secretary, and the Treasurer, and as many other Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall from time to time determine appropriate. Such officers shall be elected annually by the Board at the first meeting of the Board following the "Annual Members' Meeting" (as described in Section 4.1 of the Bylaws); provided, however, such officers may be removed by such Board and other persons may be elected by the Board as such officers in the manner provided in the Bylaws. The President shall be a Director of the Association, but no other officer need be a Director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, the offices of President and Vice President shall not be held by the same person, nor shall the same person hold the office of President who holds the office of Secretary or Assistant Secretary. The President shall be designated as the representative Member on the Board of Directors of the Master Association.

#### ARTICLE VIII FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

President	Ronald S. Molko
Secretary/Treasurer	Gene Grabarnick

#### ARTICLE IX BOARD OF DIRECTORS

A. The number of Directors on the first Board ("First Board"), the "Initial Elected Board" (as hereinafter defined) and all Boards elected prior to the Annual Members' Meeting following the "Developer's Resignation Event" (as hereinafter defined) shall be no less than three (3) nor more than seven (7). The number of Directors elected by the Members subsequent to the Developer's Resignation Event shall be as provided in Paragraph K of this Article IX. Except for Developer-appointed Directors, Directors must be Members or the spouses, parents or children of Members except that if a Residential Condominium Unit is owned by an entity and not an individual, such entity may appoint an individual on its behalf to be eligible to serve on the Board.

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B. The names and addresses of the persons who are to serve as the First Board are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Ronald S. Molko	1501 Collins Avenue, Suite 300 Miami Beach, FL 33139
Gene Grabarnick	1501 Collins Avenue, Suite 300 Miami Beach, Florida 33139
Garett Grabarnick	1501 Collins Avenue, Suite 300 Miami Beach, Florida 33139

Developer reserves the right to designate successor Directors to serve on the First Board for so long as the First Board is to serve, as hereinafter provided. Developer reserves the right to remove any Director from the First Board and the right to remove any Director designated by Developer in accordance with these Articles.

C. Upon the conveyance by Developer to Residential Condominium Unit Owners other than Developer ("Purchaser Members") of fifteen percent (15%) or more of the "Total Units" (as hereinafter defined) (as evidenced by the recordation of deeds), the Purchaser Members shall be entitled to elect one-third (1/3) of the Board, which election shall take place at the Initial Election Meeting. Developer shall designate the remaining Directors on the Board at the Initial Election Meeting. The Director to be so elected by the Purchaser Members and the remaining Directors to be designated by Developer are hereinafter collectively referred to as the "Initial Elected Board" and shall succeed the First Board upon their election and qualification. Subject to the provisions of Paragraph IX.D below, the Initial Elected Board shall serve until the next Annual Members' Meeting, whereupon, the Directors shall be designated and elected in the same manner as the Initial Elected Board. The Directors shall continue to be so designated and elected at each subsequent Annual Members' Meeting until such time as the Purchaser Members are entitled to elect not less than a majority of the Directors on the Board. Developer reserves the right, until such time as the Purchaser Members are entitled to elect not less than a majority of the Directors on the Board, to designate successor Directors to fill any vacancies caused by the resignation or removal of Directors designated by Developer pursuant to this Paragraph IX.C.

The term "Total Units" means the number of Residential Condominium Units contemplated for the Condominium.

D. Purchaser Members are entitled to elect not less than a majority of the Board upon the happening of any of the following events, whichever shall first occur:

1. Three (3) years after sales by Developer of fifty percent (50%) of the Total Units have been "Closed" (as hereinafter defined); or

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2. Three (3) months after sales by Developer of ninety percent (90%) of the Total Units have been Closed; or
3. When all of the Total Units in the Condominium have been completed (as evidenced by the issuance of Certificates of Occupancy for all of same) and some have been sold to Purchaser Members and none of the others are being offered for sale by Developer in the ordinary course of business; or
4. When some of the Total Units in the Condominium have been conveyed to Purchaser Members and none of the others are being constructed or offered for sale by Developer in the ordinary course of business; or
5. Seven (7) years after the recordation of the Declaration; or
6. When Developer, as Developer has the right to do at any time upon written notice to the Association, relinquishes its right to designate a majority of the Board.

The term "Closed" shall mean the recording of a deed or other instrument of conveyance to a Purchaser Member amongst the Public Records.

**E. The election of not less than a majority of Directors by the Purchaser Members shall occur at a meeting of the membership to be called by the Board for such purpose ("Majority Election Meeting").**

F. At the Majority Election Meeting, Purchaser Members shall elect two (2) Directors and Developer, until the Developer's Resignation Event, shall be entitled to designate one (1) Director. Developer reserves the right, until the Developer's Resignation Event, to name the successor, if any, to any Director it has so designated; provided, however, Developer shall in any event be entitled to exercise any right it may have to representation on the Board as granted by law, notwithstanding the occurrence of the Developer's Resignation Event.

G. At the first Annual Members' Meeting held after the Majority Election Meeting, a "staggered" term of office of the Board shall be created as follows:

1. a number equal to fifty percent (50%) of the total number of Directors rounded to the nearest or next whole number is the number of Directors whose term of office shall be established at two (2) years and the Directors serving for a two (2) year term will be the Directors receiving the most votes at the meeting; and
2. the remaining Directors' terms of office shall be established at one (1) year.

At each Annual Members' Meeting thereafter, as many Directors of the Association shall be elected as there are Directors whose regular term of office expires at such time, and the term of office of the Directors so elected shall be for two (2) years, expiring when their successors are duly elected and qualified.

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H. The Board shall continue to be elected by the Members subject to Developer's right to appoint a member to the Board as specified in the Act at each subsequent Annual Members' Meeting, until Developer is no longer entitled to appoint a member to the Board.

I. The Initial Election Meeting and the Majority Election Meeting shall be called by the Association, through its Board, within seventy-five (75) days after the Purchaser Members are entitled to elect a Director or the majority of Directors, as the case may be. A notice of the election shall be forwarded to all Members in accordance with the Bylaws; provided, however, that the Members shall be given at least sixty (60) days' notice of such election. The notice shall also specify the number of Directors that shall be elected by the Purchaser Members and the remaining number of Directors designated by Developer.

J. Developer shall cause all of its designated Directors to resign when Developer no longer holds at least five percent (5%) of the sum of the Total Units for sale in the ordinary course of business. In addition, Developer may at any time, in its sole discretion, cause the voluntary resignation of all of the Directors designated by it. The happening of either such event is herein referred to as the "Developer's Resignation Event". Upon the Developer's Resignation Event, the Directors elected by Members shall elect successor Directors to fill the vacancies caused by the resignation or removal of the Developer's designated Directors. These successor Directors shall serve until the next Annual Members' Meeting and until their successors are elected and qualified; provided, however, nothing herein contained shall be deemed to waive any right to representation on the Board which Developer may have pursuant to the Act. Developer specifically reserves the right to assert any right to representation on the Board it may have pursuant to the Act, notwithstanding that the Developer's Resignation Event may have previously occurred.

K. At each Annual Members' Meeting held subsequent to the year in which the Developer's Resignation Event occurs, the number of Directors to be elected shall be determined by the Board from time to time, but there shall not be less than three (3) Directors nor more than seven (7).

L. The following provisions shall govern the right of each Director to vote and the manner of exercising such right:

1. There shall be only one (1) vote for each Director.
2. In the case of deadlock by the Board, application shall be made to a court of competent jurisdiction to resolve the deadlock.

#### ARTICLE X POWERS AND DUTIES OF THE BOARD OF DIRECTORS

All of the powers and duties of the Association shall be exercised by the Board in accordance with the provisions of the Act and the Condominium Documents, where applicable, and shall include, but not be limited to, the following:

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- A. Making and collecting Assessments against Members to defray the costs of the Common Expenses of the Condominium and collecting Assessments levied by the Master Association.
- B. Using the proceeds of Assessments in the exercise of the powers and duties of the Association and the Board.
- C. Maintaining, repairing and operating the improvements within the Condominium.
- D. Reconstructing improvements after casualties and losses and making further authorized improvements within the Condominium.
- E. Making and amending rules and regulations with respect to the Condominium.
- F. Enforcing by legal means the provisions of the Condominium Documents.
- G. Contracting for the management and maintenance of the Condominium Property and authorizing a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of improvements or portions thereof for which the Association has such responsibility and other services with funds that shall be made available by the Association for such purposes and terminating such contracts and authorizations. The Association and its officers shall, however, retain at all times the powers and duties granted by the Condominium Documents and the Act including, but not limited to, the making of Assessments, promulgation of rules and regulations and execution of contracts on behalf of the Association.
- H. Purchasing and carrying insurance for the protection of Members and the Association against casualty and liability in accordance with the Act and the Condominium Documents and to allocate the premiums therefor in accordance with the Condominium Documents.
- I. Paying costs of all power, water, sewer and other utility services rendered to the Condominium Property and not billed directly to Residential Condominium Unit Owners.
- J. Hiring and retaining such employees as are necessary to administer and carry out the services required for the proper administration and purposes of this Association and paying all salaries therefor.
- K. Engaging in mandatory nonbinding arbitration as provided for in Section 718.112(2)(a)2 of the Act for the settlement of disputes as provided for in Section 718.1255 of the Act. The provisions of Sections 718.112(2)(a)2 and 718.1255 are incorporated by reference herein.
- L. Preparing a question and answer sheet, if and as required by the Act and the rules promulgated in the Florida Administrative Code by the Division of Florida Land Sales, Condominiums and Mobile Homes, and updating the question and answer sheet at least annually.

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M. Maintaining an adequate number of copies of the Condominium Documents, as well as the question and answer sheet referred to in Paragraph X.M. above, on the Condominium Property to ensure their availability to Residential Condominium Unit Owners and prospective purchasers. The Association may charge its actual costs for preparing and furnishing the foregoing to those requesting same.

N. Ensuring that the following contracts shall be in writing:

- (i) Any contract for the purchase, lease or renting of materials or equipment which is not to be fully performed within one (1) year from the date of execution of the contract.
- (ii) Any contract, regardless of term, for the provision of services; other than contracts with employees of the Association, and contracts for attorneys and accountant services, and any other service contracts exempted from the foregoing requirement by the Act or rules set forth in the Florida Administrative Code as they relate to condominiums.

O. Obtaining competitive bids for materials, equipment and services where required by the Act and rules set forth in the Florida Administrative Code as they relate to condominiums.

P. All other powers and duties reasonably necessary to operate and maintain the Condominium in compliance with the Condominium Documents and the Act.

#### ARTICLE XI INDEMNIFICATION

Every Director and every officer of the Association (and the Directors and/or officers as a group) shall be indemnified by the Association against all expenses and liabilities, including counsel fees (at all trial and appellate levels) reasonably incurred by or imposed upon him or them in connection with any proceeding, litigation or settlement in which he may become involved by reason of his being or having been a Director or officer of the Association. The foregoing provisions for indemnification shall apply whether or not he is a Director or officer at the time such expenses and/or liabilities are incurred. Notwithstanding the above, in the event of a settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement and authorizes reimbursement for the costs and expenses of the settlement as in the best interest of the Association. In instances where a Director or officer admits or is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, the indemnification provisions of these Articles shall not apply. Otherwise, the foregoing rights to indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or officer may be entitled whether by statute or common law. The indemnification hereby afforded to Directors and officers shall also extend to any entity other than the Association found responsible or liable for the actions of such individuals in their capacity as Directors or officers, including, but not limited to Developer.

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Upon the resignation of a Director who has been designated by Developer or the resignation of an officer of the Association who has been elected by the first Board, the Association and all of the Members of the Association shall be deemed to remise, release, acquit, satisfy and forever discharge such officer or Director of and from any and all manner of action(s), cause(s) of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Association or Members had, now have or will have or which any personal representative, successor, heir or assign of the Association or Members hereafter can, shall or may have against said officer or Director for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of such resignation, except for such Director's or officer's willful misconduct or gross negligence.

#### ARTICLE XII BYLAWS

The Bylaws of the Association shall be adopted by the First Board and thereafter may be altered, amended or rescinded by the affirmative vote of not less than a majority of the Members present at an Annual Members' Meeting or special meeting of the membership and the affirmative approval of a majority of the Board at a regular or special meeting of the Board. In the event of a conflict between the provisions of these Articles and the provisions of the Bylaws, the provisions of these Articles shall control.

#### ARTICLE XIII AMENDMENTS

A. Prior to the recording of the Declaration amongst the Public Records, these Articles may be amended by an instrument in writing signed by the President (or a Vice President) and the Secretary (or an Assistant Secretary) and filed in the Office of the Secretary of State of the State of Florida. The instrument amending these Articles shall identify the particular Article or Articles being amended, give the exact language of such amendment and give the date of adoption of the amendment by the Board. A certified copy of each such amendment shall always be attached to any certified copy of these Articles or a certified copy of the Articles as restated to include such Amendments and shall be an exhibit to each Declaration upon the recording of each Declaration. This Article XIII is intended to comply with Chapter 617, Florida Statutes.

B. After the recording of the Declaration amongst the Public Records, these Articles may be amended in the following manner:

1. The Board, as a whole, shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of Members, which may be either the Annual Members' Meeting or a special meeting. Any number of amendments may be submitted to the Members and voted upon by them at one (1) meeting;

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2. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member of record entitled to vote within the time and in the manner provided in the Bylaws for the giving of notice of Meetings of Members ("Required Notice");

3. At such meeting a vote of the Members shall be taken on the proposed amendments. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes of all Members entitled to vote thereon; or

4. An amendment may be adopted by a written statement signed by all Directors and written consent of Members representing the Voting Interests sufficient to pass the amendment if the vote were to be taken at a meeting where all Members are present and setting forth their intention that an amendment to the Articles be adopted. Where an amendment is passed by written consent in lieu of meeting, those Members not submitting written consent shall be notified in writing of the passage thereof.

C. No amendment may be made to the Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

D. A copy of each amendment shall be certified by the Secretary of State of the State of Florida and, after the recordation of the Declaration, recorded amongst the Public Records as an amendment to the Declaration.

E. Notwithstanding the foregoing provisions of this Article XIII, there shall be no amendment to these Articles which shall abridge, amend or alter the rights of Developer, including the right to designate and select the Directors as provided in Article IX hereof, without the prior written consent thereto by Developer nor shall there be any amendment to these Articles which shall abridge, alter or modify the rights of the holder, guarantor or insurer of a first mortgage on any Residential Condominium Unit or of any "Institutional Mortgagee" (as defined in each Declaration) without its prior written consent.

#### ARTICLE XIV EMERGENCY POWERS

The following shall apply to the extent not viewed to be in conflict with the Act:

A. During any emergency defined in Paragraph XIV.E below or in anticipation of such emergency, the Board may:

1. Modify lines of succession to accommodate the incapacity of any Director, officer, agent or employee of the Association; and
2. Relocate the principal office of the Association or designate alternate principal offices or authorize officers to do so.

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B. During any emergency defined in Paragraph XIV.E below:

1. One or more officers of the Association present at a meeting of the Board may be deemed to be Directors for the meeting, in order of rank and within the same order of rank in order of seniority, as necessary to achieve a quorum; and
2. The Director or Directors in attendance at a meeting shall constitute a quorum.

C. Corporate action taken in good faith during an emergency under this Article XIV to further the ordinary affairs of the Association:

1. Binds the Association; and
2. May not be used to impose liability on a Director, officer, employee or agent of the Association.

D. A Director, officer or employee of the Association acting in accordance with any emergency bylaws is only liable for willful misconduct.

E. An emergency exists for the purposes of this Article XIV if a quorum of the Directors cannot readily assemble because of a catastrophic event.

#### ARTICLE XV REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is 1458 Ocean Drive, Miami Beach, Florida 33139 and the initial registered agent of the Association at that address shall be Ronald S. Molko.

IN WITNESS WHEREOF, the Incorporator has hereunto affixed his signature, this 16 day of June, 2006.

  
Ronald S. Molko

The undersigned hereby accepts the designation of Registered Agent of De Soleil South Beach Residential Condominium Association, Inc. as set forth in Article XV of these Articles of Incorporation and acknowledges that he is familiar with, and accepts the obligations imposed upon registered agents under, the Florida Not For Profit Corporation Act.

  
Ronald S. Molko

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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STATE OF FLORIDA )  
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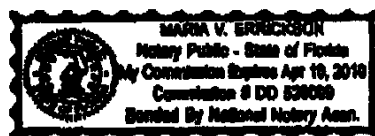
I HEREBY CERTIFY that on this day, before me a Notary Public duly authorized in the State and County named above to take acknowledgments, personally appeared Ronald S. Molko, to me known to be the person described as the Incorporator in and who executed the foregoing Articles of Incorporation and he acknowledged before me that he executed the same for the purposes therein expressed. He is personally known to me or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the State and County last aforesaid this 16 day of JUNE, 2006.

My Commission Expires: 4/10/2010

  
Notary Public State of Florida at Large

MARIA V. ERICKSON  
Typed, printed or stamped name of Notary



# EXHIBIT D

## BYLAWS OF DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM ASSOCIATION, INC.

### Section 1. Identification of Association

These are the Bylaws of DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM ASSOCIATION, INC. ("Association"), as duly adopted by its Board of Directors ("Board"). The Association is a corporation not for profit, organized pursuant to Chapter 617, Florida Statutes, for the purpose of managing, operating, and administering the condominium known as De Soleil South Beach Residential Condominium as more particularly set forth in the Articles of Incorporation of the Association ("Articles").

1.1. The office of the Association shall be for the present at 1501 Collins Avenue, Suite 300, Miami Beach, Florida 33139, and thereafter may be located at any place designated by the Board.

1.2. The fiscal year of the Association shall be the calendar year.

1.3. The seal of the corporation shall bear the name of the corporation, the word "Florida" and the words "Corporation Not For Profit."

### Section 2. Definitions

2.1. All terms shall have the meanings set forth in the Condominium Act, Chapter 718, Florida Statutes, 1976 ("Act") as amended through the date of recording the Declaration amongst the Public Records of Miami-Dade County, Florida ("County") and, for clarification, certain terms shall have the meanings ascribed to them in the Articles. All terms defined in the Articles shall appear with initial capital letters each time such term appears in these Bylaws.

2.2. Notwithstanding anything to the contrary, references to any of the Condominium Documents shall be deemed to include any amendment to such document as set forth therein.

### Section 3. Membership; Members' Meetings; Voting and Proxies

3.1. The qualification of Members, the manner of their admission to Membership and the termination of such Membership shall be as set forth in Article IV of the Articles.

3.2. The Members shall meet annually at the office of the Association or at such other place in the County, at such time as determined by the Board and as designated in the notice of such meeting ("Annual Members' Meeting"), commencing with the year following the year in which the Articles are filed with the Secretary of State. All such meetings shall be conducted in the English language. The purpose of the Annual Members' Meeting shall be to hear reports of the officers, elect members of the Board (subject to the provisions of Article IX of the Articles) and transact any other

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business authorized to be transacted by the Members.

3.3. Special meetings of the Members shall be held at any place within the State of Florida whenever called by the President or Vice President of the Association or by a majority of the Board. A special meeting must be called by such President or Vice President upon receipt of a written request from one-third (1/3) of the Members, except as otherwise provided in Sections 4.5(a) and 7.3(b) hereof.

3.4. Except as otherwise provided herein, written notice of a meeting (whether the Annual Members' Meeting or a special meeting of the Members) shall be mailed to each Member at his/her/its last known address as it appears on the books of the Association. Proof of such mailing shall be given by affidavit of the person who mailed such notice and also by such other method as may be required by the Act. The notice shall state the time and place of such meeting and the purposes for which the meeting is called. Unless a Member waives in writing the right to receive notice of the meeting, written notice of Annual Members' Meetings and special meetings of the Members shall be mailed or delivered to each Member in the manner required by the Act, not less than fourteen (14) days prior to the date of the meeting. Notice of the Annual Members' Meeting or special meeting of the Members shall be posted at a conspicuous place on the Condominium Property as more particularly set forth in the rules and regulations ("Rules and Regulations"), at least fourteen (14) continuous days prior to the meeting. If a meeting of the Members, either a special meeting or an Annual Members' Meeting, is one which, by express provision of the Act or Condominium Documents (provided the express provision of the Condominium Documents are in accordance with the requirements of the Act) there is permitted or required a greater or lesser amount of time for the mailing or posting of notice than is required or permitted by the provisions of this Paragraph 3.4, then such express provision shall govern.

3.5. The Members may waive notice of special meetings and act by written agreement in lieu of a meeting in accordance with Section 718.112(2)(d)4 of the Act. Written notice of the matter or matters to be considered by written agreement in lieu of a meeting shall be given to the Members, at the addresses and within the time periods set forth in Section 3.4 hereof or duly waived in accordance with such Section. The notice shall set forth a time period during which time a response must be made by a Member or "Proxy" (as hereinafter defined). The decision of a majority of a quorum of the Voting Interests (as evidenced by written response to be solicited in the notice) shall be binding on the Members, provided a quorum of the Members, submits a response. However, if the question is one upon which, by express provisions of the Act or the Condominium Documents (provided the express provisions of the Condominium Documents are in accordance with the requirements of the Act), requires a vote of other than a majority vote of a quorum, then such express provision shall govern and control the required vote on the decision of such question.

3.6. A quorum of the Members shall consist of persons entitled to cast votes on behalf of a majority of the entire membership. When a quorum is present at any meeting and a question which raises the jurisdiction of such meeting is presented, the holders of a majority of the Voting Interests present in person or represented by written Proxy shall be required to decide the question. However, if the question is one which, by express provision of the Act or the Condominium Documents (provided the express provision of the Condominium Documents is in accordance with the requirements of the Act), requires a vote other than the majority vote of a quorum, then such express

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provision shall govern and control the required vote on the decision of such question.

3.7. If any meeting of the Members, cannot be properly held because a quorum is not in attendance, the Members who are present, either in person or by Proxy, may adjourn the meeting from time to time until a quorum is present. A quorum is not required for an election to occur; however, at least twenty percent (20%) of the eligible voters must cast a ballot in order to have a valid election of Directors. In the case of the meeting being adjourned, the notice provisions for the adjournment shall, subject to the Act, be as determined by the Board.

3.8. At any Annual Members' Meeting at which elections of Directors are to occur Directors shall be elected by written ballot or voting machine. In no event shall Proxies be used in electing the Board, either in general elections or elections to fill vacancies caused by resignation, recall, or otherwise, unless otherwise provided in the Act. The procedures for becoming a candidate for the Board and voting in elections shall be as provided in Section 718.112(2)(d)(3) of the Act.

3.9. If a quorum is not in attendance at a meeting, the Members entitled to vote thereat who are present, either in person or by Proxy, may adjourn the meeting from time to time until a quorum is present with no further notice of such adjourned meeting being required unless otherwise determined by the Board. In the event any meeting is adjourned or postponed to be continued at another time because a quorum is not present at such meeting, then and in that event, the quorum requirements provided herein shall be reduced to the presence in person or by Proxy of one-third (1/3) of the Voting Interests of Members of the Association at the adjourned meeting. Actions approved by a majority of the Voting Interests of Members present in person or by Proxy at such adjourned meeting at which such reduced quorum exists shall be binding upon all Members and for all purposes except where otherwise provided by law, in the Declaration, in the Articles, or in these Bylaws. This reduction of the quorum requirements shall apply only if the Board sends notice of the adjourned or postponed meeting to the Members as elsewhere provided, which notice must specifically provide that quorum requirements will be reduced at the adjourned or postponed meeting.

3.10. Minutes of all meetings shall be kept in a businesslike manner and available for inspection by the Members and Directors at all reasonable times. The Association shall retain minutes for at least seven (7) years subsequent to the date of the meeting the minutes report.

3.11. Voting rights of Members shall be as stated in each Declaration and the Articles. Such votes may be cast in person or by Proxy. "Proxy" is defined to mean an instrument in writing, signed by a Member, appointing a person to whom the Member delegates the Member's right to cast a vote or votes in place of and instead of that Member. Proxies shall be valid only for the particular meeting designated therein and any lawful adjournments thereof; provided, however, that no Proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given, provided, this express provision is not inconsistent with the requirements of the Act, in which case the Act shall govern and control. Each Proxy shall contain the date, time and place of the meeting for which the Proxy is given. A limited Proxy shall set forth those items which the holder of the Proxy may vote and the manner in which the vote is cast. Members shall not vote by general Proxy, except as provided in Florida Statutes 718.112(2)(b)(2), but may vote by limited Proxy. A Proxy must be filed with the Secretary of the Association before the appointed time of the meeting in

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order to be effective. Any Proxy may be revoked prior to the time a vote is cast by virtue of such Proxy.

3.12. Upon demand of any Member at any time prior to a vote upon any matter at a meeting of the Members, any Member may demand voting on such matter shall be by secret ballot. The chairman of the meeting shall call for nominations for inspectors of election to collect and tally written ballots upon the completion of balloting upon the subject matter.

3.13. Members shall have the right to participate in meetings with reference to all designated agenda items in accordance with the Rules and Regulations. In addition, any Member may tape record or videotape a meeting in accordance with the Rules and Regulations.

#### Section 4. Board of Directors; Directors' Meetings

4.1. The form of administration of the Association shall be by a Board of not less than three (3) Directors. At each Annual Members' Meeting held subsequent to the year in which the Developer's Resignation Event occurs, the number of Directors (which must be an odd number) shall be determined by the Board from time to time. Except for Developer-appointed Directors, Directors must be Members of the Association or the spouses, parents, children, officers, directors, shareholders or partners of Members.

4.2. The provisions of the Articles setting forth the selection, designation, election and removal of Directors, are hereby incorporated herein by reference. Unless otherwise provided in the Act, Directors elected by the Members in accordance with Article IX of the Articles shall be elected by a plurality of votes cast by the Members present in person or by Proxy and entitled to vote at a properly held Annual Members' Meeting or special meeting of the Members.

4.3. Subject to Section 4.5 below and the rights of Developer as set forth in the Articles and as set forth in Section 4.5(c) below, vacancies on the Board shall be filled by person(s) elected by the affirmative vote of a majority of the remaining Directors. Such person shall be a Director and have all the rights, privileges, duties and obligations as a Director elected at the Annual Members' Meeting. A Director elected by the Board to fill a vacancy shall hold office only until the next election of Directors by the Members.

4.4. The term of each Director's service, except as provided in Section 4.3 of these Bylaws, shall extend until the next Annual Members' Meeting and thereafter, until his/her successor is duly elected and qualified or until he/she is removed in the manner elsewhere provided herein.

4.5. (a) A Director elected by the Purchaser Members, as provided in the Articles, may be removed from office with or without cause upon the affirmative vote or the agreement in writing of the Purchaser Members acting on behalf of a majority of Voting Interests held by Purchaser Members at a special meeting of the Purchaser Members. Any such recall shall be effected and a recall election shall be held, if applicable, as provided in Section 718.112(2)(j), F.S., as it may be amended from time to time.

(b) A Director on the First Board or designated by Developer as provided in the Articles may be removed only by Developer. Any such recall shall be effected and a recall election shall be held, if applicable, as provided in Rule 61B-23.0026, F.A.C.

4.6. Notice to Members of the Annual Members' Meeting at which the Board of Directors is elected shall specify that the organizational meeting of the newly elected Board shall be held immediately following the Annual Members' Meeting. In the event the newly elected Board announces at the Annual Members' Meeting that it will not have its organizational meeting immediately after the Annual Members' Meeting, the Members shall be properly noticed as provided for in these Bylaws. No further notice of the organizational meeting shall be necessary, providing that a quorum shall be present at such organizational meeting.

4.7. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of Directors. All meetings of the Board shall be conducted in the English language. Special meetings of the Board may be called at the discretion of the President or the Vice President of the Association. Special meetings must be called by the Secretary at the written request of one-third (1/3) of the Directors.

4.8. Notice of the time, agenda and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the day specified for such meeting. Except in an emergency, notice of a Board meeting shall be posted conspicuously on the Condominium Property, as more specifically set forth in the Rules and Regulations, at least forty-eight (48) continuous hours in advance for the attention of Members. Notice of any meeting where regular assessments against Members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Notice of a meeting where nonemergency Special Assessments or amendments to rules regarding Residential Condominium Unit use will be considered shall be mailed or delivered to the Residential Condominium Unit Owners and posted conspicuously on the Condominium Property not less than fourteen (14) days prior to the meeting. Proof of such mailing shall be given by affidavit executed by the person providing the notice and filed among the official records of the Association. Any Director may waive notice of the meeting before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.9. For matters to be considered by the Board as a whole, as set forth in Article IX, Paragraph L of the Articles, a quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as specifically provided elsewhere herein or in any of the Condominium Documents. A Director who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he/she votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest. A vote or abstention for each Director present shall be recorded in the minutes. If at any meetings of the Board there shall be less than a quorum present, the majority of those present entitled to vote may adjourn the meeting from time to time until a quorum is present. At any properly held adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted. In the case of the

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adjournment of a meeting, the notice provisions for the adjournment shall, subject to the Act, be as determined by the Board.

4.10. The presiding officer at Board meetings shall be the President. In the absence of the President, the Directors present shall designate any one of their number to preside.

4.11. Directors shall not receive any compensation for their services.

4.12. The Board shall have the power to appoint executive committees of the Board consisting of not less than two (2) Directors. Executive committees shall have and exercise such powers of the Board as may be delegated to such executive committee by the Board.

4.13. Meetings of the Board shall be open to all Members. Members shall have the right to participate in meetings with reference to all designated agenda items in accordance with the Rules and Regulations. All Member meetings shall be conducted in the English language. In addition, any Member may tape record or videotape a meeting in accordance with the Rules and Regulations.

#### Section 5. Fining Procedure for Enforcement of the Condominium Documents; Fees

5.1. A nonexclusive optional procedure for Board enforcement of the Condominium Documents, including the rules and regulations, shall be as follows:

##### 5.1.1. First Offense (1st Notice)

When the Association becomes aware of noncompliance of a rule or regulation by a Residential Condominium Unit Owner, family member, guest, invitee or lessee, it shall send a certified letter to the Residential Condominium Unit Owner advising him of the rule which he/she has been accused of violating and warning that strict compliance with the Rules and Regulations will be required. Each day on which a violation occurs shall be deemed to be a separate offense.

##### 5.1.2. Second Offense (2nd Notice)

If the Association receives a second report that a violation has been repeated or has been continued beyond the time specified within the first notice, the Board, after verifying the violation, may authorize a fine to be levied upon the Residential Condominium Unit Owner. The fine for a second offense may not exceed the maximum amount permitted by the Act. Notice of a second violation shall be sent to the Residential Condominium Unit Owner by certified mail.

##### 5.1.3. Third Offense (3rd Notice)

If the Association receives a third report that a violation has been repeated or has continued beyond the time specified within the second notice, the Residential Condominium Unit Owner may be charged a fine in an amount not to exceed the maximum amount permitted by the Act, following verification of the violation by the Board.

#### 5.1.4. Fourth Offense

For repeated offenses or in any case where the Board deems it appropriate, the Board may seek injunctive relief through court action. In addition, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed the amount set forth in Section 718.303(3) of the Act.

#### 5.2. Exemptions and Hearings

(a) Any Residential Condominium Unit Owner may appear before the Association to seek an exemption from or variance in the applicability of any given rule or regulation as it relates to said person on grounds of undue hardship or other special circumstances.

(b) Where the Association levies fines, such fines shall be levied pursuant to the procedures set forth in the Rules and Regulations.

5.3. A Residential Condominium Unit Owner who fails to timely pay any Assessment shall be charged a late charge by the Association for such late Assessment in an amount not to exceed the maximum amount permitted by the Act. Owners shall be responsible to pay all legal fees (including but not limited to, attorney and paralegal fees and court costs) incurred in connection with the collection of late Assessments whether or not an action at law to collect said Assessment and foreclose the Association's lien has been commenced. The Association may charge an administrative fee in addition to any interest charged in accordance with the Declaration in an amount not to exceed the greater of \$25.00 or five percent (5%) of each installment that the payment is late. Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any court costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment.

5.4. (a) The existence of the Association's right to fine as herein provided shall not preclude nor limit its right to seek any other enforcement method or remedy provided: (i) pursuant to the Condominium Documents; (ii) at law; or (iii) in equity.

(b) The amount of the fines as set forth herein may be increased by the Board in its sole discretion; provided, however, any such increase shall conform to the applicable requirements of the Act as to the maximum dollar amount of such fines as such maximum dollar amount may be increased by amendment of the Act from time to time.

#### 5.5. Written Inquiries by Residential Condominium Unit Owners

Written inquiries by Members to the Board shall be handled in accordance with Section 718.112(2)(a)(2), F.S., as it may be amended from time to time.

## Section 6. Officers of the Association

6.1. Executive officers of the Association shall be the President, who shall be a Director, one or more Vice Presidents, a Treasurer, a Secretary and, if the Board so determines, an Assistant Secretary and an Assistant Treasurer, all of whom shall be elected annually by the Board. Any officer may be removed from office without cause by vote of the Directors at any meeting of the Board. The Board shall, from time to time, elect and designate the powers and duties of such other officers and assistant officers as the Board shall find to be required to manage the affairs of the Association.

6.2. The President, who shall be a Director, shall be the chief executive officer of the Association. He/she shall have all of the powers and duties which are usually vested in the office of the president of a condominium association including, but not limited to, the power to appoint committees from among the Members at such times as he/she may, in his/her discretion, determine appropriate to assist in conducting the affairs of the Association. He/she shall preside at all meetings of the Board. The President shall be the Association's representative (director) on the board of directors of the Master Association.

6.3. The Vice President(s) shall generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice President elected by the Board, then they shall be designated "First," "Second," etc. and shall be called upon in such order to exercise the powers and perform the duties of the President if he/she is absent or incapacitated.

6.4. The Secretary shall cause the minutes of all meetings of the Board and of the Members to be kept, which minutes shall be recorded in a businesslike manner and shall be available for inspection by Members and Directors at all reasonable times. He/she shall have custody of the seal of the Association and shall affix the same to instruments requiring a seal when duly signed. He/she shall keep the records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board or the President. The Assistant Secretary, if any, shall assist the Secretary and shall perform the duties of the Secretary when the Secretary is absent.

6.5. The Treasurer shall have custody of all the property of the Association, including funds, securities and evidences of indebtedness. He/she shall keep the assessment rolls and accounts of the Members; he/she shall keep the books of the Association in accordance with good accounting practices; and he/she shall perform all the duties incident to the office of Treasurer. The Assistant Treasurer, if any, shall assist the Treasurer and shall perform the duties of the Treasurer whenever the Treasurer is absent.

6.6. Officers shall not receive compensation for their services. The compensation, if any, of all other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director or an officer as an employee of the Association nor preclude the contracting with a Director or an officer for the management of all or any portion of the Condominium.

## Section 7. Accounting Records; Fiscal Management

### 7.1. Accounting Records

(a) The Association shall maintain the official records of the Association in accordance with Section 718.111(12) of the Act, which records shall be open to inspection by Members and owners of first mortgages on Residential Condominium Units or their authorized representatives at reasonable times. The Association may charge Owners, owners of first mortgages on Residential Condominium Units or their authorized representative its actual costs for preparing and furnishing copies of the documents including, but not limited to, the Declaration, Articles, Bylaws, Rules and Regulations, question and answer sheet and any amendment to the foregoing to those requesting same. Authorization of a representative of a Member must be in writing, signed by the Member giving the authorization and dated within ten (10) working days before the date of the inspection. The official records shall include accounting records for the Association maintained according to good accounting practices, and such accounting records shall be maintained for a period of not less than seven (7) years. Accounting records so maintained by the Association shall include, but are not limited to: (i) accurate, itemized and detailed records of all receipts and expenditures; (ii) a current account, and a quarterly statement of the account for each Residential Condominium Unit or as reported at such interval as may be required by the Act as amended from time to time by the Florida Legislature, designating the name of the owner thereof, the due date and amount of each assessment, the amount paid upon the account, and the balance due; (iii) all audits reviews, accounting statements and financial reports of the Association; and (iv) all contracts for work to be performed, and such bids shall be considered official records and maintained for a period of one (1) year.

(b) A report of the actual receipts and expenditures of the Association for the previous twelve (12) months ("Report") shall be prepared annually by an accountant or Certified Public Accountant unless this requirement is waived pursuant to Section 718.111(13) of the Act. The Report shall be prepared consistent with the requirements of Rule 61B-22.006, F.A.C. and a copy of such report shall be furnished in accordance with the Act to each Member not later than the first day of April of the year following the year for which the Report is made. The Report will include account classifications designated in the Act, if applicable, and accounts otherwise included at the Board's discretion. The Report shall be deemed to be furnished to the Member upon its delivery or mailing to the Member at the last known address shown on the books and records of the Association. In the event the requirements of Rule 61B-22.006, F.A.C. are properly waived, then the Report shall be prepared and furnished complying with Section 718.111(13) of the Act and Rule 61B-22.006, F.A.C.

### 7.2. Budget

(a) The Board shall adopt a Budget for the Common Expenses of the Condominium ("Budget") for each forthcoming fiscal year ("Budget Year") at a special meeting of the Board ("Budget Meeting") called for that purpose in October or November prior to the applicable Budget Year. Prior to the Budget Meeting a proposed Budget for the Condominium shall be prepared by or on behalf of the Board, which Budget(s) shall include, but not be limited to, the following items of expense applicable to the Condominium:

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- (i) Administration of the Association
- (ii) Utilities
- (iii) Management Fees
- (iv) Maintenance
- (v) Insurance
- (vi) Security provisions
- (vii) Other expenses
- (viii) Operating capital
- (ix) Reserves for Capital Expenditures and Deferred Maintenance
- (x) Fees payable to the Division of Florida Land Sales, Condominiums and Mobile Homes

(b) The Budget for the Condominium constitutes an estimate of the expenses to be incurred by the Association for and on behalf of the Condominium.

(c) The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of the Condominium Property. The Budget for the Condominium shall include, on an annual basis, the establishment of reserve accounts for capital expenditures and deferred maintenance of the Condominium Property. The reserve accounts shall include, but not be limited to, furniture, appliances and elevator replacement regardless of the amount of deferred maintenance expense or replacement cost, and for any other items for which the deferred maintenance expense or replacement cost exceeds Ten Thousand Dollars (\$10,000). The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost of each reserve item. Notwithstanding any other provisions to the contrary contained herein, in the event that, by a majority vote of either Members, at a duly called meeting of the Association, elect to have less than a full reserve or no reserve for deferred maintenance and replacement, then the applicable Budget shall be based on such lesser reserves or no reserves, as the case may be.

(d) Copies of the applicable proposed Budget and notice of the exact time and place of the Budget Meeting shall be mailed to each Member at the Member's last known address, as reflected on the books and records of the Association, not less than fourteen (14) days prior to said Budget Meeting, and the Budget Meeting shall be open to the Members. Failure to timely adopt a Budget for the Condominium shall not alter or abrogate the obligation to pay Common Expenses.

(e) In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any income received by the Association in any calendar year may be used by the Association to pay expenses incurred by the Association in the same calendar year; (iii) there shall be apportioned between calendar years on a pro rata basis any expenses which are prepaid in any one (1) calendar year for Common Expenses which cover more than such calendar year; (iv) Assessments shall be made not less frequently than quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current expenses and for all unpaid expenses previously incurred; and (v) expenses incurred in a calendar year shall be charged against income for the same calendar year regardless of

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when the bill for such expenses is received. Notwithstanding the foregoing, Assessments shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses and anticipated cash needs in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting. The cash basis method of accounting shall conform to generally accepted accounting standards and principles.

(f) The Board shall not be required to anticipate revenue from Assessments or expend funds to pay for Common Expenses or Shared Expenses pursuant to the Master Declaration (as defined in the Articles) not included in a Budget or which shall exceed budgeted items, and no Board shall be required to engage in deficit spending. Should there exist any deficiency which results from expenses being greater than income from Assessments, then such deficits shall be carried into the applicable Budget for the next succeeding year as a deficiency or shall be the subject of a Special Assessment to be levied by the Board as otherwise provided in the applicable Declaration.

(g) The Board may also include in the proposed Budget a sum of money as an assessment for the making of betterments to the Condominium Property and for anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis. This sum of money so fixed may then be levied upon the Members by the Board as a Special Assessment and shall be considered an "Excluded Expense" under Section 7.3(a) hereof.

### 7.3. Adoption of Budget

Until the provisions of Section 718.112(2)(e) of the Act relative to the Members' approval of a Budget requiring Assessments against the Members in excess of 115% of such Assessments for the Members in the preceding year are declared invalid by the courts, or until amended by the Florida Legislature, the following shall be applicable (however, if such amendment merely substitutes another amount for 115%, then such new amount shall be substituted for 115% each time it is used in this Section 7.3):

(a) Should the Budget adopted by the Board at the Budget Meeting require Assessments against Members of an amount which is not greater than one hundred fifteen percent (115%) of such Assessments for the prior year, the Budget shall be deemed approved by all Members. If, however, the Assessments required to meet the Budget exceed one hundred fifteen percent (115%) of such assessments for the Membership for the preceding year ("Excess Assessment"), then the provisions of Subsections 7.3(b) and (c) hereof shall be applicable. There shall be excluded in the computation of the Excess Assessment certain expenses ("Excluded Expenses") as follows:

(1) Reserves for repair or replacement of any portion of the Condominium Property;

(2) Expenses of the Association which are not anticipated to be incurred on a regular or annual basis; and

(3) Assessments for betterments to the Condominium Property.

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(b) Should the Excess Assessment be adopted by the Board, then upon delivery to the Board, within twenty (20) days after the Budget Meeting, of a written application requesting a special meeting signed by ten percent (10%) of the Voting Interests of the Residential Condominium Units, the Board shall call a special meeting to be held upon not less than ten (10) days' written notice to each Member, but to be held within thirty (30) days of the delivery of such application to the Board. At said special meeting, the Members shall consider and enact a Budget of Common Expenses. The adoption of the revisions to the Budget of Common Expenses shall require approval of not less than a majority of Voting Interests appurtenant to all Residential Condominium Units in the Condominium. The Board may propose revisions to the Members at a meeting of Members or in writing, and, if a revised Budget of Common Expenses is enacted at said special meeting, then the revised Budget shall be, as to the Common Expenses, incorporated into the final Budget. If no written application is delivered as provided herein and a quorum is not obtained or a substitute budget is not adopted by the Members, then the Budget originally adopted by the Board shall be the final Budget and shall go into effect as scheduled.

(c) Until the Majority Election Meeting, the Board shall not impose an Assessment pursuant to a Budget for Common Expenses for the Condominium which is greater than one hundred fifteen percent (115%) of the prior fiscal year's Assessment without approval of a majority of the Voting Interests of Members to be so assessed.

#### 7.4. Allocation of Common Expenses

(a) The portion of the expenses to be allocated to the operation and management of the Condominium shall be set forth in the Budget and shall constitute the Common Expenses of the Condominium. The Common Expenses shall be apportioned to each Residential Condominium Unit Owner based upon his/her share of Common Expenses, as provided in the Declaration of the Condominium.

(b) Notwithstanding the allocation to each Residential Condominium Unit, of their share of Common Expenses, a Residential Condominium Unit Owner shall also be liable for any Special Assessments levied by the Board against his/her/its Residential Condominium Unit as provided in the Condominium Documents. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the Owners; provided, however, that upon completion of such specific purpose or purposes any excess funds shall be considered Common Surplus. The Association shall collect Assessments and Special Assessments for Common Expenses from a Residential Condominium Unit Owner in the manner set forth in the Condominium Documents.

#### 7.5 Depository

The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board. Notwithstanding the foregoing, the President and/or the Treasurer of the Association shall be authorized to sign checks on behalf of the Association, unless otherwise specified by the Board.

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## Section 8. Rules and Regulations

The Board may adopt rules and regulations or amend or rescind existing Rules and Regulations for the operation and use of the Condominium at any meeting of the Board; provided such Rules and Regulations are not inconsistent with the Condominium Documents nor detrimental to sales or leasing of Residential Condominium Units by Developer. Copies of any Rules and Regulations promulgated, amended or rescinded shall be mailed to all Owners at the last known address as shown on the books and records of the Association and shall not take effect until forty-eight (48) hours after such mailing.

## Section 9. Parliamentary Rules

The then latest edition of Robert's Rules of Order shall govern the conduct of meetings of this Association when not in conflict with the Condominium Documents or the Act. In the event of a conflict, the provisions of the Condominium Documents and the Act shall govern.

## Section 10. Amendments of the Bylaws

10.1. These Bylaws may be amended by the affirmative vote of not less than a majority of the votes of Members entitled to vote thereon, represented in person or by Proxy at a properly held Annual Members' Meeting or special meeting of the Membership and the approval of a majority of the Board at a regular or special meeting of the Board. A copy of the proposed amendment shall be sent to each Member along with notice of the Annual Members' Meeting or special meeting. An amendment may be approved at the same meeting of the Board and/or Members at which such amendment is proposed.

10.2. An amendment may be proposed by either the Board or by the Members, and after being proposed and approved by one of such bodies, must be approved by the other as set forth above in order to become enacted as an amendment.

10.3. No modification or amendment to these Bylaws shall be adopted which would affect or impair the priority of any holder, insurer or guarantor of a first mortgage on any Residential Condominium Unit in the Condominium, the validity of such mortgage or any of the rights of Developer.

## Section 11. Fidelity Bonding

The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association in accordance with Section 718.111(11)(d) of the Act.

Section 12. Condemnation of Common Elements

The Association has a limited power to convey a portion of the Common Elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion or other public purposes, whether negotiated or as a result of eminent domain proceedings.

DE SOLEIL SOUTH BEACH RESIDENTIAL  
CONDOMINIUM ASSOCIATION, INC., a Florida  
corporation not-for-profit

DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM

SCHEDULE OF PERCENTAGES (FRACTIONS) OF OWNERSHIP  
IN COMMON ELEMENTS, COMMON SURPLUS AND COMMON EXPENSE  
(See Article 6 of Declaration)

<u>Unit No</u>	<u>Fractional Share</u>	<u>Unit No</u>	<u>Fractional Share</u>
201	1/80	315	1/80
203	1/80	316	1/80
204	1/80	317	1/80
205	1/80	318	1/80
206	1/80	319	1/80
207	1/80	320	1/80
208	1/80	321	1/80
209	1/80	322	1/80
210	1/80	323	1/80
211	1/80	324	1/80
212	1/80	325	1/80
213	1/80	326	1/80
214	1/80	327	1/80
215	1/80	PH1	1/80
216	1/80	PH2	1/80
217	1/80	PH3	1/80
218	1/80	PH4	1/80
219	1/80	PH5	1/80
220	1/80	PH6	1/80
221	1/80	PH7	1/80
222	1/80	PH8	1/80
223	1/80	PH9	1/80
224	1/80	PH10	1/80
225	1/80	PH11	1/80
226	1/80	PH12	1/80
227	1/80	PH13	1/80
301	1/80	PH14	1/80
302	1/80	PH15	1/80
303	1/80	PH16	1/80
304	1/80	PH17	1/80
305	1/80	PH18	1/80
306	1/80	PH19	1/80
307	1/80	PH20	1/80
308	1/80	PH21	1/80
309	1/80	PH22	1/80
310	1/80	PH23	1/80
311	1/80	PH24	1/80
312	1/80	PH25	1/80
313	1/80	PH26	1/80
314	1/80	PH27	1/80

CERTIFICATE REGARDING RECEIPT FOR PAID REAL ESTATE TAXES

In compliance with Chapter 718.105(5), F.S., this is to certify that attached hereto as Exhibit "A" is a receipted bill indicating that all real estate taxes due and owing on the "Condominium Property" as described in the foregoing Declaration of Condominium of De Soleil South Beach Residential Condominium ("Declaration") have been paid as of the date of recordation of the Declaration.

WITNESSES:

DE SOLEIL SOUTH BEACH RESIDENTIAL  
CONDOMINIUM ASSOCIATION, INC., a Florida  
corporation

Print Name: J. CHAIKIN

By:

Ronald S. Molko, President

Print Name: Brett G. G. G.

STATE OF FLORIDA )

) SS:

COUNTY OF MIAMI-DADE)

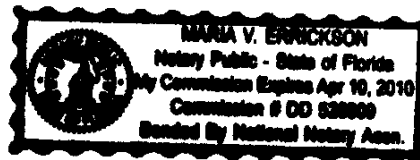
I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by RONALD S. MOLKO, the President of DE SOLEIL SOUTH BEACH RESIDENTIAL CONDOMINIUM ASSOCIATION, INC., a Florida corporation, freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 21 day of JUNE 2006.

[Signature]  
Notary Public

MARIA V. ERICKSON  
Typed, printed or stamped name of Notary Public

My Commission Expires: 4/10/2010



# COMBINED TAX BILL

RETAIN THIS PORTION  
FOR YOUR RECORDS

2006 AD VALOREM TAXES 2006 TJS 11/13/2006  
MILL CD: 0200 FOLIO: 02 3234 012 0050 NAME: SOUTH BEACH RESORT DEV LLC

SCHOOL		AND STATE		DISTRICTS		AMOUNT DUE IF PAID IN	
AUTHORITY	RATE	AMOUNT	AUTHORITY	RATE	AMOUNT		
SCH OP	7.6910000	63974.51	EVG PRJ	0.1000000	831.81	NOV	186233.35
SCH DEB	0.4140000	3443.69	CHILD T	0.4223000	3512.73	DEC	188173.28
FIND	0.0385000	320.25				JAN	190113.21
WM DIST	0.5970000	4965.91	SUB TOT		77048.90	FEB	192053.14
						MAR	193993.07

CITY OF MIAMI BEACH					
OPER	7.3740000	61337.67			
DBT SVC	0.2990000	2487.11			
			SUB TOT		63824.78

DADE COUNTY		DISTRICTS			
CNTY WD	5.6150000	46706.13			
DBT SVC	0.2850000	2370.66			
LIBRARY	0.4860000	4042.60			
			SUB TOT		53119.39

NON-AD VALOREM ASSESSMENTS					
SPECIAL ASSESSMENTS:	DIST	RATE	FOOTAGE/UNITS	AMOUNT	

DADE COUNTY TAX COLLECTOR					
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IMPROVEMENT DISTRICTS:	DIST	INTEREST RATE YEARS	11/13/2006 1300/223/001TJS	0023-0001	
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Last Seq.#:0001 WI Folio:02 32340120050  
Curr. Real Estate \$186,233.35

PROPERTY ADDRESS: 1437-65 COLLINS AVE  
COMMENTS: SAVE TIME. PAY ON-LINE. WWW.MIAMIDADE.GOV  
FOR INFORMATION CALL 305-270-4916

▼ DETACH HERE ▼

11/13/2006 1300/223/001TJS 0023-0001  
Last Seq.#:0001 WI Folio:02 32340120050  
Curr. Real Estate \$186,233.35  
CK \$186,233.35  
CHANGE \$0.00

Thank you and have a nice day.  
Please keep your receipt for  
future reference.

DADE COUNTY TAX COLLECTOR  
140 W. Flagler Street  
Miami, Florida 33130

\*\*\*\*\*

OR BK 25089 PG 2406  
LAST PAGE